

EXHIBIT 6

EAG:NMA/AL
F.#2010R00195

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA

- against -

10 CR 147 (S-6) (DLI)

MICHAEL PERSICO,

Defendant.

- - - - -X

MEMORANDUM OF LAW REGARDING
EVIDENCE PRESENTED AT *FATICO* HEARING

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PRELIMINARY STATEMENT

The government respectfully submits this memorandum of law regarding evidence presented at the Fatico hearing conducted on August 10 and 24, 2016. For the reasons set forth below, the government respectfully submits that it has proven by a preponderance of the evidence that the defendant participated in (1) racketeering; (2) the 1993 murder of Joseph Scopo; (3) loansharking; (4) extortion; and (5) a conspiracy to acquire and sell stolen video games.

DISCUSSION

I. RACKETEERING

A. The Testimony of Anthony Russo

At the Fatico hearing, the government called cooperating witness Anthony Russo to testify. Russo testified that he is a 55-year-old Brooklyn native who began committing crimes at age 16. (Transcript of Fatico Hearing (attached as Ex. A) (“Tr.”) at 11.) He was involved in organized crime from that age until his arrest in 2011. (Id. at 12.) He has been involved with the Gambino and Colombo crime families, and has held the positions of associate, soldier and acting captain in organized crime. (Id. at 12-13.)

1. The Structure of Organized Crime Families

Russo testified that there are five organized crimes families in New York City, namely, the Bonanno, Colombo, Gambino, Genovese and Luchese families. (Id. at 13.) They share a common structure, including the following positions, ranked from top to bottom: boss, underboss, consigliere, captains, soldiers and associate. (Id.) Each position has specific responsibilities, and there is a formal process to becoming a “soldier,” i.e., an inducted member. (Id. at 14-17.) Money flows from the bottom of the structure to the top.

(Id. at 16.) The rules of organized crime include prohibitions on narcotics trafficking, murder (absent the boss’s permission) and cooperation with law enforcement. (Id. at 17.)

2. Russo’s Role in the Colombo Family

When Russo initially became involved with organized crime, he was associated with the Gambino crime family. (Id. at 17.) After he was arrested in 1987 and convicted of assault, he was incarcerated with Theodore Persico, Jr., also known as “Teddy Boy.”¹ (Id. at 18-20.) Persico, Jr. was an inducted member of the Colombo family and the cousin of the defendant. (Id. at 21.) Russo and Persico, Jr. grew close, and Persico, Jr. wanted Russo “around” him, meaning that Russo would be protected by Persico, Jr. and would have to provide money to Persico, Jr. (Id. at 21-22.)

When Russo was released from prison in late 1992, he became a Colombo family associate; because Persico, Jr. was still incarcerated, Russo reported to Persico, Jr.’s father, Theodore Persico, Sr., also known as “Uncle Teddy,” who was a captain in the Colombo family and the brother of Colombo family boss Carmine Persico. (Id. at 23-24, 26-28.) At that time, other associates of Persico, Jr. also reported to Persico, Sr., including Bobby Tarantola, Anthony Ferrara, Frank Sparaco and Frank Guerra, also known as “BF.” (Id. at 28.)

In early 2009, Russo was inducted into the Colombo family. (Id. at 113.) He was assigned to report to Persico, Jr. (Id.) In or around 2010, Russo was promoted to acting captain in the Colombo family. (Id. at 114-15.)

¹ In this memorandum, the defendant Michael Persico is referred to as “the defendant,” his cousin Theodore Persico, Jr. is referred to as “Persico, Jr.,” and Persico, Jr.’s father, Theodore Persico, Sr., is referred to as “Persico, Sr.” Other members of the Persico family are referred to using their full names.

3. The Defendant's Role in the Colombo Family

The defendant is an associate in the Colombo family. (Id. at 32.) He is the son of Carmine Persico, the boss of the Colombo family. (Id. at 21.) The defendant's brother, Alphonse Persico, has been an inducted member, captain and acting boss within the Colombo family. (Id. at 25.)

As discussed in greater detail below, in or around 1993, Persico, Sr. and other leaders of the Colombo family were arrested. (Tr. at 31.) As a result, Russo and his criminal partner Frank Guerra reported to the defendant. (Id. at 32.) Although the defendant was an associate, and it was not common for associates to report to another associate, Russo and Guerra reported to the defendant because they were close with him and his father was the boss. (Id.) In or around 1993, Russo and Guerra met with the defendant at locations including Romantique Limousine, which was the defendant's limousine business and was located at 11th Avenue and 67th Street in Brooklyn, New York, as well as at a bus company the defendant had in Coney Island, restaurants, and other locations. (Id. at 27, 33.) At that time, Russo discussed loansharking with the defendant – which, as explained below, Russo committed using money provided by the defendant – and observed that Persico, Jr.'s other associates, including Joe Baudanza, Guerra, Tarantola and Ferrara, met with the defendant “all the time.” (Id. at 33-34.) In approximately 1994, the defendant's brother Alphonse Persico was released from jail, at which time Russo and Guerra were assigned to report to him rather than the defendant. (Id. at 69-70.)

In the late 1990s, Russo opened a liquor store in Staten Island. (Id. at 85.) He obtained money to open the store from the defendant, the defendant's cousin Frank Persico, and Colombo family member Anthony Stropoli. (Id. at 85-86.) The store was successful at

first, but then faltered. (Id. at 86.) Russo held on to it until he was arrested in late 1999 or early 2000.² (Id. at 86-87.) After he was arrested, he discussed the store with the defendant. (Id. at 87-88.) The defendant gave Russo several suggestions, including giving the store to the defendant, which Russo elected to do. (Id. at 88.) The defendant then arranged for Colombo family associate Carl Panarella to work in the store, although it remained registered to Russo's girlfriend's father. (Id. at 89.) The store was then sold, with no profit going to Russo. (Id.)

In the late 1990s, Stropoli told Russo that Stropoli, Dino Calabro, "Andre" and an associate from Boston were going to be inducted into the Colombo family, which subsequently happened. (Id. at 90-91.) Russo became upset because he thought he and his friends were more deserving, having ended the Colombo family war by murdering Joseph Scopo – a sentiment he expressed to Guerra. (Id. at 91.) Guerra reported this to the defendant, and word got back to Stropoli and Frank Persico. (Id. at 91-92.) They confronted Russo for having provided the information to Guerra, and Russo, in turn, confronted Guerra about having told the defendant that Russo was complaining. (Id.) Russo was concerned that talking as he had could get him killed. (Id. at 92.)

In or around November or December 2008, after Russo completed a term of supervised release, he talked to the defendant about possibly getting inducted into the

² Public records indicate that Russo was arrested in the Eastern District of New York on or about January 27, 2000, that he was released on bail four days later, and that the case was dismissed later that year. See United States v. Russo, 99 CR 920 (CBA) (E.D.N.Y.). On March 29, 2000, he was arrested in the Southern District of New York and ordered released; on June 12, 2000, he pled guilty; and on September 15, 2000, he was sentenced to a 96-month term of imprisonment. See United States v. Russo, 00 CR 26 (JSM) (S.D.N.Y.). Notably, in both cases his co-defendant was Francis Guerra.

Colombo family. (Id. at 109-10.) The defendant told Russo that his brother, Alphonse Persico, wanted Russo to be inducted. (Id. at 110.) The defendant also gave Russo advice about how to act after he was inducted, suggesting that he calm down and “speak softer.” (Id.)

In or around 2009, Russo and Guerra tried to open a legitimate business selling car detailing products. (Id. at 115.) They asked the defendant for money to start the business, and he directed them to ask Scott Reback, who gave them money. (Id. at 115-16.) In late 2009 or early 2010, Russo and Guerra opened the business in the defendant’s garage on 11th Avenue near 67th or 68th Street in Brooklyn, where the defendant formerly kept his limousines. (Id. at 116-17.) The defendant provided this space after Guerra had asked him for assistance. (Id.)

In addition, Russo and Guerra asked the defendant for help getting business from Colombo family members John Staluppi and John Rosatti, who owned car dealerships. (Id. at 117-18.) The defendant agreed. (Id. at 118.) Russo and Guerra then got business from Rosatti, but Russo was not satisfied with the amount they got from Staluppi. (Id.) Russo asked the defendant for additional help with Staluppi, but then decided not to bother the defendant and instead asked Reback, who was Staluppi’s son-in-law, to talk to Staluppi for Russo. (Id. at 118-19.) Reback agreed, but instead reported the request to the defendant. (Id. at 119-20.) As a result, Russo and Guerra were summoned to meet Persico, Jr. and Angelo Spata, who was the defendant’s brother-in-law. (Id. at 120.) Persico, Jr., who was upset, accused Russo of going behind the defendant’s back, and told Russo that only the defendant was allowed to reach out to Staluppi. (Id. at 120-21.) Spata told Russo that the

only people he should listen to were Carmine Persico, Alphonse Persico and the defendant; Russo responded that he listened to Persico, Jr. (Id. at 121.)

B. Additional Evidence

1. 1993 Surveillance

Government Exhibits 7003 and 208(a) show that the defendant met with Colombo family member Joseph Monteleone, Sr., in 1993.³ Government Exhibit 7003 is a surveillance log prepared by FBI Special Agent Kevin O'Rourke about a surveillance he conducted on March 9, 1993. As indicated in an entry made on the log at 12:48 p.m., the surveillance was instituted at 6701 11th Avenue in Brooklyn, New York, and is associated with "color roll # 6192." Entries made beginning at 1:02 p.m. indicate that the agent observed Joseph Monteleone, Sr. exiting that location and entering a car. An entry made at 1:33 p.m. indicates that the agent saw Monteleone ("JMS") with an unknown white male ("UWM") on a bridge at Cropsey Avenue; the entry also indicates that color photos numbered 15 through 21 depict the two men at that location.

Government Exhibit 208(a) is one of the photographs taken during the surveillance. The back of the exhibit is labeled with the roll number 6192, photograph number 21, and the agent's initials. The photograph depicts two men. As the agent observed in his log, one of the men is Joseph Monteleone, Sr. The government respectfully submits that the unknown man – the younger of the two, whom the agent identified as "UWM" – is the defendant. In particular, his appearance in this exhibit is the same as his appearance in the 1997 surveillance discussed below, in which he was positively identified.

³ Numbered exhibits cited herein are enclosed within Exhibit D.

2. 1997 Surveillance

By way of background, Russo testified that in 1996 or 1997, he was on parole, and was not allowed to meet with Alphonse Persico – a condition that he violated. (Tr. at 69-71.) The defendant’s cousin Frankie Persico told Russo that there existed a videotape depicting Russo meeting with the defendant and Alphonse Persico. (*Id.* at 71-72.) Russo’s parole officer subsequently showed him the videotape, which Russo testified indeed depicted him meeting with the defendant and Alphonse Persico. (*Id.* at 72.)

Government Exhibits 7004 and 228 indicate that the defendant in fact met with Anthony Russo and Alphonse Persico in and around the location of Romantique Limousine in Brooklyn, New York in 1997. Government Exhibit 7004 is the trial testimony of New York City Police Department (“NYPD”) Detective Fred Santoro. As indicated in the testimony, Detective Santoro conducted a surveillance of Russo in or around August 1997 on 11th Avenue between 67th and 68th streets in Brooklyn, New York, where Romantique Limousines was located. (GX 7004 at 1891-92.) His surveillance depicted Russo meeting with Alphonse Persico and the defendant. (*Id.*) Government Exhibit 228 is a copy of the video surveillance. Consistent with Detective Santoro’s testimony, the video footage from the beginning to 0:09 depicts Alphonse Persico and Russo together; from 2:00 to 2:15 depicts Russo and the defendant walking out of Romantique together; and from 2:15 to 3:30 depicts the defendant meeting with Alphonse Persico and Russo across the street from Romantique.⁴

⁴ The video may be viewed by opening the folder named “VIDEO_TS” withing Government Exhibit 228 and then opening the file named “VIDEO_TS.IFO.” If a video-player application opens and depicts a series of bars, click on the top bar.

3. Telephone Evidence

Government Exhibits 7001 and 1013(b) indicate that the defendant's limousine business (Romantique) had telephone contacts with members and associates of the Colombo family, including Anthony Russo, Frank Guerra and Joseph Monteleone, Sr. Exhibit 7001 is the trial testimony of FBI Intelligence Analyst Maria Kinigopoulos, who testified that she reviewed telephone records and prepared a summary chart showing contacts among certain telephones. Exhibit 1013(b) is a summary chart that the witness prepared based on those records, which was admitted into evidence in the Guerra trial. (GX 7001 at 2101-02.)

II. THE 1993 MURDER OF JOSPEH SCOPO

A. The Testimony of Anthony Russo

Russo testified that when he was released from prison in 1992, the Colombo family was split into two warring factions. (Tr. at 30.) One faction was loyal to the defendant's father, official boss Carmine Persico, and the other was loyal to the acting boss, Vic Orena, who was attempting to take over the crime family.⁵ (*Id.* at 30-31.) The leaders of the Persico faction included Chucky Russo (no relation to Anthony Russo), Jo Jo Russo (also no relation to Anthony Russo), Persico, Sr., Joseph Monteleone, Sr. (whom Russo knew as "Joe Monte") and Thomas Gioeli. (*Id.*) The leaders of the Orena faction included Joe Scopo and William Cutolo, also known as "Wild Bill." (*Id.* at 31.)

⁵ Russo explained that in organized crime, a member is "officially" in a position if he is appointed to it permanently; alternatively, a member can be appointed to an "acting" position if the person who officially holds it is incarcerated. (Tr. at 14.)

Russo became involved in the Colombo family war immediately upon his release from prison in 1992. (Id. at 34.) Notably, in or around 1993, Persico faction leaders Persico Sr., Chucky Russo, Jo Jo Russo and Joseph Monteleone, Sr. were arrested, along with Persico faction associate Frank Sparaco. (Id.)

At some point in 1992 or 1993, Russo and Colombo family associates Guerra, Tarantola, Danny Persico (the defendant's cousin and Persico, Jr.'s brother), Anthony Ferrara and Eric Curcio developed a plan to murder Cutolo. (Id. at 34-35.) Russo and Guerra apprised the defendant of their plan, including by telling the defendant they had almost killed Cutolo on two occasions. (Id. at 35.)

After Russo began plotting to murder Cutolo, the defendant asked him to meet Curcio, who "had a line" on Scopo, which Russo understood to mean that Curcio knew where Scopo was and that Russo and others should "do what we had to do" to murder Scopo. (Id. at 36.) Curcio was a Colombo family associate who claimed to be related to Joseph Monteleone, Sr. (Id. at 36-37.) Russo agreed to meet Curcio, and Russo wanted to murder Scopo to help the Persicos maintain control of the crime family as well as to advance within the crime family himself. (Id. at 37-38.)

Curcio told Russo and Guerra that he knew where Scopo was, and asked if they were willing to put together a crew to murder Scopo. (Id. at 38.) Russo and Guerra agreed. (Id.) Originally, the crew included Russo, Guerra, Tarantola, Curcio and Ferrara. (Id.) Subsequently, Curcio brought John Sparacino into the crew. (Id. at 38-39.)

After Russo and Guerra met with Curcio, they told the defendant their plans and told him that they needed weapons. (Id. at 40.) The defendant told them, "No problem. We have plenty." (Id.) The defendant then pointed at a Colombo family associate known as

“Smiley” and said to Guerra, “You got Smiley’s number. Smiley will bring you a bag.”

(Id.) Later that day, Guerra brought a duffle bag to Russo’s house. (Id. at 40-41.) It contained a Mac 10 with a silencer and two pistols. (Id. at 41.) Guerra said he had just received the firearms from “Smiley.” (Id.)

Persico, Jr. remained incarcerated during the planning of the Scopo murder. (Id. at 41.) Guerra told Russo that he visited Persico, Jr. and told him about the planning, and that Persico, Jr. said to make sure they got it done. (Id. at 42.) At some point, Russo and others met with Persico, Sr. at a funeral parlor, after Persico, Jr.’s grandmother died.⁶ (Id. at 44-45.) The funeral parlor was Scarpaci’s on 86th Street and 14th Avenue in Brooklyn, New York. (Id.) Russo understood that although Persico, Jr. was still incarcerated at that time, he was allowed to attend because a close relative had died. (Id.) At the funeral home, Persico, Jr. discussed the Scopo murder with Russo, Guerra and Tarantola, and Persico, Jr. told them, “You got to get it done and I want my guys to do it.” (Id. at 45-46.) Russo understood “my guys” to refer to himself, Guerra and Tarantola. (Id. at 46.) Notably, at or around this time, the Scopo murder crew consisted of Russo, Guerra, Curcio, Sparacino and John Pappa, whom Curcio had recruited into the crew. (Id. at 46-47.)

After the funeral, the crew made an unsuccessful attempt to murder Scopo: they saw Scopo taking out the garbage outside his home in Brooklyn, but they did not shoot him because by the time they identified him, he was too close to his front door. (Id. at 47-

⁶ Russo recalled that the meeting at the funeral parlor took place in the summer of 1994. Because Scopo was murdered in October 1993, and records discussed below indicate the funeral took place in August 1993, the government submits that Russo misspoke or was mistaken about the precise year, and that the meeting with Persico, Jr. occurred in August 1993, not 1994.

48.) Russo reported this unsuccessful attempt to the defendant. (Id. at 48-49.) The defendant responded, “You got to get this thing done before my brother goes to trial.” (Id. at 49.) At the time, his brother Alphonse Persico was in jail, awaiting trial for his role in the Colombo family war, and Russo understood that murdering Scopo soon would allow Alphonse Persico to assert his incarceration as an alibi. (Id. at 49-50.) On another occasion, the crew located Scopo outside his social club⁷, but Russo did not shoot because Scopo was near a woman and two children. (Id. at 50-52.)

The crew eventually succeeding in murdering Scopo. Russo recalled that the murder occurred in late 1993 in the Ozone Park neighborhood, in the vicinity of 110th Street and 109th Avenue, where Scopo’s house was then located. (Id. at 52.) The plan – which was largely carried out – called for Russo to drive a car in which Sparacino and Pappa were passengers; Sparacino was to sit in the back seat with the Mac 10, and was to be the shooter; and Pappa was the “backup” shooter. (Id. at 52-53.) Curcio and Guerra were assigned to drive separate “crash cars,”⁸ for a total of three cars. (Id.) During the murder, Russo indeed drove Sparacino and Pappa, and he recalled that his car was a four-door, brown or beige Chevrolet. (Id. at 53-54.) It had been stolen, and he started it with a screwdriver. (Id. at 54.)

The night that the murder was carried out, the crew members set up on a corner near Scopo’s home. (Id. at 54.) Sparacino wore a ski mask. (Id. at 55.) Curcio spotted Scopo, and the crew members got in their assigned cars. (Id. at 54.) Russo told

⁷ A “social club” is a place where members of organized crime meet. (Tr. at 50.)

⁸ A “crash car” is used to block law enforcement from accessing a street. (Tr. at 48.)

Sparacino he was going to pull in front of Scopo's car, at which point Sparacino should kick his door open and fire. (Id.)

Scopo approached his home in a car that Russo recalled was a small, light-colored Nissan Altima. (Id. at 54.) Scopo was in the passenger seat. (Id. at 55.) As Scopo's car parked, Russo pulled up next to it, aligning his own back door with Scopo's front bumper so that Sparacino could open the door and shoot. (Id.) Sparacino did so, emptying the Mac 10 at Scopo's car. (Id. at 55-56.) This was the Mac 10 that the defendant had previously provided through "Smiley," and it contained thirty rounds. (Id. at 57.)

As Sparacino fired, a bullet came through the back window of Russo's car. (Id. at 56.) Pappa exited Russo's car and ran into some bushes, carrying an automatic pistol. (Id.) Sparacino screamed at Russo to go, and Russo drove off; as he did, he saw Pappa, who was still on the street, beginning to shoot. (Id.) Russo drove to a prearranged spot about two blocks away and parked. (Id. at 57.) He and Sparacino exited their car, leaving the Mac 10 in it, which the defendant had instructed Russo to do, and left Sparacino's ski mask and Russo's gloves in a bush. (Id. at 57-58.) Guerra pulled up to the corner, with Pappa now in his car. (Id. at 58.) Russo and Sparacino got in the backseat of Guerra's car, and Guerra drove off. (Id.) Scopo died as a result of the defendant and the crew's actions. (Id.)

After the Scopo murder, then-Colombo family associate Dino Calabro and Luchese family associate Michael DeRosa separately approached Russo and commented on his participation in the murder. (Id. at 58-60.) Russo told each of them that he did not know what they were talking about, because Russo understood that talking about a murder could get him killed. (Id. at 59-60.) Russo and Guerra complained to the defendant that Curcio was telling others what they had done, and the defendant instructed them to talk to Curcio.

(Id. at 60-61.) They did; Curcio denied it and said that, because of the murder, the crew members would get inducted into the crime family and would become captains.⁹ (Id. at 61.)

B. Additional Evidence

1. Crime Scene Photographs

Exhibit 7000 is the trial testimony of NYPD Detective John DeGiulio.

Detective DeGiulio testified that on October 20, 1993, he responded to the Joseph Scopo murder scene and took the photographs admitted into evidence at the Guerra trial as Government Exhibits 17(c), 18(a), 18(c), 19(a) and 19(b). (GX 7000 at 1037, 1039-41, 1049-52.) Initially, he responded to 110th Street between 107th and 109th Avenues in Queens, New York. (GX 7000 at 1034-35.) He later responded to 106th Street, where there was a vehicle that was believed to be involved in the crime. (Id. at 1035.) The photographs he took depict the following:

- GX 17(c): A large, brown, four-door Buick with a shattered back windshield and other damage, as it was found on 106th Street. (GX 7000 at 1039.)
- GX 18(a) and 18(c): A white Nissan Altima found in front of 107-43 and 107-45 110th Street, with shattered windows and ballistics damage. (GX 7000 at 1040-42.)
- GX 19(a): The rear passenger area of the Buick, which contained a semiautomatic weapon with a silencer and a wool hat. (GX 7000 at 1049-50.)
- GX 19(b): The semiautomatic weapon and silencer that had been in the Buick. (GX 7000 at 1049, 1051-52.)

⁹ Subsequently, Pappa killed Sparacino, and Russo helped mutilate and dispose of the body. (Tr. at 63-66.) Curcio also got killed, and Russo believes Pappa was involved in murdering him. (Id. at 66-68.)

These exhibits corroborate Russo's testimony that he drove a four-door, brown or beige car to murder Scopo (though he recalled it was a Chevrolet), that Scopo arrived in a small, light-colored Nissan Altima, that the murder crew used a semiautomatic weapon with a silencer, that Sparacino had a ski cap (the wool hat), and that bullets were fired both at Scopo in the Nissan and in return at Russo in the brown car, shattering his rear windshield.

Exhibit 7007 is the trial testimony of NYPD Detective Jeffrey Young.

Detective Young testified that on October 21, 1993, he took photographs of the Buick and Nissan after they were secured in a garage. (GX 7007 at 1847-50.) He took the photographs admitted into evidence at the Guerra trial as Government Exhibits 20(c), 20(d), 20(f), 20(g), 21(e) and 21(i). (GX 7007 at 1852-54, 1856-57.) The photographs he took depict the following:

- GX 20(c): The Buick, with a shattered rear windshield and other damage. (GX 7007 at 1852.)
- GX 20(d): The interior driver's area of the Buick, including a broken steering wheel column, which is consistent with car theft, and a screwdriver between the seats. (GX 7007 at 1852-53.)
- GX 20(f): The backseat of the Buick, including broken glass and the wool cap. (GX 7007 at 1853.)
- GX 20(g): The backseat of the Buick, including discharged shells. (GX 7007 at 1854.)
- GX 21(e): The exterior of the rear passenger side of the Nissan, including broken glass. (GX 7007 at 1856-57.)
- GX 21(i): The interior of the rear of the Nissan, including shattered glass and bullet fragments. (GX 7007 at 1856-57.)

These exhibits corroborate Russo's testimony about the types of cars involved, the ski mask, the fact that bullets were fired in both directions, and the fact that the brown car he drove had been stolen and was then started with a screwdriver.

2. Funeral Records

Records corroborate Russo's testimony about meeting with Persico, Jr. during the planning of the Scopo murder even though Persico, Jr. was incarcerated. Government Exhibit 861 is a death certificate for Elenor Avena indicating a date of death of August 17, 1993. The government proffers that Ms. Avena was the grandmother of Teddy Persico, Jr. Government Exhibit 862 is a business record from a funeral home dated August 17, 1993. (GX 862 at 1.) It shows that Ms. Avena's place of service was "Scarpaci FH." (GX 862 at 5.) Government Exhibit 863 is a state prison record dated August 18, 1993, indicating that an inmate named Persico was transported on a "BKLYN funeral trip." (GX 863 at 1.)

3. Guilty Plea of Theodore Persico, Jr.

Persico, Jr. was a co-defendant in the present case. On June 8, 2012, he pled guilty to conspiring to murder Joseph Scopo in aid of racketeering. (Docket Entry Nos. 562, 563.) This corroborates Russo's testimony that Persico, Jr. was involved in ordering and planning the murder.

4. Guilty Plea of Anthony Russo

Russo's own guilty plea also corroborates his testimony. He pled guilty to racketeering conspiracy, including the Scopo murder, which subjected him to a maximum sentence of life imprisonment. (Tr. at 125-26; see also GX 3500-AR-9(b) (indictment in United States v. Russo, 11 CR 30 (KAM)) ¶¶ 17-21; GX 3500-AR-9(c) (Russo's plea allocation) at 22.)

5. Docket Sheet for Alphonse Persico's Case

The docket for United States v. Alphonse Persico, 92 CR 351 (DGT) (E.D.N.Y.), which is attached as Exhibit B, corroborates Russo's testimony that Alphonse Persico was incarcerated during the planning of the Scopo murder, which motivated the defendant to order that the murder occur soon, and that Alphonse Persico was released from incarceration in 1994, at which time Russo and Guerra began reporting to Alphonse Persico rather than the defendant. (Tr. at 49-50, 69-70.) In particular, the docket sheet indicates that an arrest warrant was issued as to Alphonse Persico on May 14, 1993 (Ex. B at 7), that he was ordered temporarily detained on June 9, 1993 (id. at 8), that he moved for bail on September 10, 1993 (id. at 11), that on September 29, 1993 Judge Sifton requested that he remain in his facility through November 1993 (id.), that the defendant's motion for bail was argued on October 12, 18, 19 and 20, 1993, and was denied on October 20, 1993 (id. at 11-13), that another bail motion was denied on April 7, 1994 (id. at 22), and that he was acquitted following trial – and was “discharged” – on August 8, 1994 (id. at 32-33).¹⁰

III. LOANSHARKING

Russo testified that in the mid-1990s, he and Guerra made money by loansharking. (Tr. at 72-73.) Loansharking involves extending loans in exchange for interest payments that do not reduce the principal. (Id. at 72.) It is generally committed by members and associates of organized crime. (Id. at 72-73.) Russo and Guerra borrowed their loansharking money from the defendant. (Id. at 73.) They borrowed from him at the rate of

¹⁰ Alphonse Persico's co-defendants included others identified by Russo as leaders of the Persico faction, including Joseph Russo, Anthony Russo, Joseph Monteleone, Sr., and Theodore Persico, Sr. (See, e.g., Ex. B at 7-8.)

one “point,” or one percent interest, per week, and they then extended loans to others at the rate of two-and-a-half to three points per week. (Id. at 73-74.) This arrangement with the defendant lasted from approximately 1993 to approximately 1996 or 1997. (Id. at 74.) In total, Russo recalled that he and Guerra borrowed about \$150,000 or \$200,000 in loansharking money from the defendant.¹¹ (Id.)

At first, Russo and Guerra had no trouble repaying the defendant. (Id. at 75.) After a year-and-a-half or two years, however, they had trouble collecting from their own customers and repaying the defendant. (Id.) The defendant initially did not make demands, but after a while, he said to them, “Listen, youse got to bring my money back.” (Id. at 75-76.) After hearing that, Russo assaulted a series of loansharking customers. (Id. at 76-80.) After Russo assaulted a customer known as “Fat Lenny,” who owed about \$30,000, the defendant told Russo that Gambino family member Tony Anastasio “was going to take care of” the loan. (Id. at 76-77.)

In a separate incident, after Russo assaulted a customer named Tony who owed \$7,000 or \$8,000, a Genovese family member known as “Joe C” urged Russo and Guerra to settle for \$2,000 or \$3,000. (Id. at 77.) Russo declined because the money belonged to the defendant, not Russo. (Id. at 77-78.) Russo reported this to the defendant’s brother, Alphonse Persico, who then told Russo – in front of “Joe C” – to continue assaulting Tony. (Id. at 78.) Subsequently, Gambino family members known as “Big Louie” and “Huck” discussed the debt with Alphonse Persico, who told Russo not to worry about the

¹¹ In addition, the defendant told Russo that he was owed money with interest by Colombo family associate Bobby Tarantola, although Russo did not know what the money was for, and Colombo family associate Anthony Ferrara said he had borrowed money from the defendant to buy a car. (Tr. at 80-81.)

debt and that he (Alphonse Persico) would get the money and give it to the defendant.¹² (Id. at 78-79.)

While they owed money to the defendant, Russo and Guerra became involved in a dispute in which Tarantola was owed \$100,000 by a stockbroker. (Id. at 98-99.) Russo and Guerra got permission from Alphonse Persico to help Tarantola collect the money. (Id. at 99.) They then assaulted the stockbroker. (Id.) Afterward, a Gambino family member known as “Ronnie One Arm” approached Russo on behalf of the stockbroker. (Id. at 99-100.) Russo agreed to leave the stockbroker alone, and, about two weeks later, “Ronnie One Arm” told Russo that the stockbroker would repay the money in two installments of \$50,000. (Id. at 100.) When they received the first installment, Russo took \$5,000. (Id. at 101.) Alphonse Persico told Russo he should not have taken any money until Alphonse Persico gave him permission. (Id. at 101-02.) Russo offered the \$5,000 to Alphonse Persico, who responded that Russo should give it to the defendant because he owed the defendant money. (Id. at 102.) Russo did in fact owe loansharking money to the defendant at that time. (Id.)

After Russo and Guerra were arrested in or around 2000, Russo was out on bail. (Id. at 102-03.) While he was out on bail, Russo discussed money with the defendant. (Id. at 103.) Russo recalled that he then owed the defendant about \$60,000 or \$70,000. (Id. at 103-04.) The defendant told Russo to forget about that money. (Id. at 104.) Russo understood that the defendant said that because Russo was involved in murdering Scopo, and the defendant did not want Russo to inform on him. (Id.) Subsequently, after Russo was sentenced and became unable to put money into his commissary account, he obtained money

¹² During this period, Russo also assaulted a loansharking customer named Santos, who owed \$3,000 or \$4,000.

from Colombo family associate Scott Reback, in the amount of approximately \$250 or \$300 per month. (Id. at 104-05.) After Russo was released, Reback told him to thank the defendant for the money. (Id. at 106.)

IV. EXTORTION

A. The Testimony of Anthony Russo

Russo testified that in 2009 or 2010, he and Colombo family member Anthony Stropoli wanted to start a valet parking business in New Jersey together. (Tr. at 121-23.) The choice of business and location was based on the fact that Stropoli already operated a wholesale seafood business selling to restaurants in New Jersey. (Id. at 122.) Russo contacted an individual he knew as “Anthony,” who operated a valet business on Staten Island, to get advice. (Id.) When Russo went to meet “Anthony,” the defendant was there. (Id. at 122-23.) The defendant asked Russo how he and Stropoli would like it if the defendant opened a seafood business. (Id. at 123.) The defendant further told Russo to make his life easier by “giv[ing] us the valet” and putting “our” (the defendant’s and “Anthony’s”) valet business in the restaurants that Russo intended to approach, while “you guys” (Russo and Stropoli) “sit back and collect a check.” (Id. at 124.) Russo then obtained valet business for “Anthony” and the defendant from an Italian restaurant in Red Bank, New Jersey. (Id. at 124.) Russo and Stropoli never opened their own valet business because they did not want “problems” from the defendant. (Id. at 124-25.)

B. Additional Evidence

Exhibit 7002 is an FBI report of an interview of a man who operated an Italian restaurant in Red Bank, New Jersey, who advised that a man named Anthony, possibly with the last name Russo, referred him to a valet business, which he used in or around 2011 for

approximately six months. Exhibits 838(a) and 838(b) are business records that the restaurant subsequently provided to the FBI, indicating that the restaurant paid Park Plus Valet Service and another company with the same address on various dates between June 2009 and February 2011.¹³ The government proffers that Park Plus Valet Service was operated by Anthony Preza, a co-defendant in this case and an associate of the defendant.

V. CONSPIRACY TO ACQUIRE AND SELL STOLEN VIDEO GAMES

A. The Testimony of Anthony Russo

Russo testified that in the mid-1990s, he was involved in a scheme to acquire and sell stolen video games. (Tr. at 81.) It began when Russo's father told him about someone who wanted to sell the games. (*Id.*) Russo met the seller, known as "Spider," who asked for \$75,000 for a tractor-trailer load of the games. (*Id.* at 81-82.) Russo then told the defendant about the scheme, and the defendant referred him to a friend who would provide the money to buy the games. (*Id.* at 82.) Russo and Guerra met the friend, who gave them \$70,000 or \$75,000. (*Id.* at 82, 85) Russo had his father rent a Ryder truck, and planned to take the games in two loads, each time paying "Spider" \$35,000. (*Id.* at 82-83.) He further planned to put the games in the garage of a bus company in Coney Island, which was owned by the defendant, and which the defendant made available for that purpose. (*Id.* at 83.)

The plan came to include additional Colombo family associates. (*Id.*) "Spider" brought Russo one load of games in the truck that Russo's father had rented. (*Id.* at 84.) However, after "Spider" showed Russo the load, Russo spotted what he believed to be

¹³ Because Government Exhibits 838(a), 838(b) and 7002 identify the restaurant and certain affiliated individual, the government will seek permission to file them under seal, with copies to the defense, under separate cover.

law enforcement agents photographing him. (Id.) Russo took “Spider” into a car service, searched him for a wire, found none, and told him to get rid of the truck and the games. (Id.) Russo held on to the money provided by the defendant’s friend. (Id. at 85.) About two days later, the defendant asked Russo if he was ever going to return the money, and Russo agreed to do so. (Id.)

B. Additional Evidence

Russo’s testimony is corroborated by the trial testimony of two FBI agents and related exhibits. Government Exhibit 7006 is the trial testimony of FBI Special Agent Kevin Wevadau, and Government Exhibit 7005 is a surveillance log reflecting a surveillance that Agent Wevadau conducted on October 26, 1994. Pursuant to Rule 803(5) of the Federal Rules of Evidence, Agent Wevadau read out loud from the log at trial, and it indicated that he took photographs of an unidentified white male that day in the vicinity of 3rd Avenue between 30th and 31st streets in Brooklyn, New York. He further testified that Exhibits 212(a), 212(b) and 212(c) were those photographs. The government respectfully submits that those photographs depict Russo and that Russo was looking directly at the camera in Exhibit 212(b).

Government Exhibit 7008 is the trial testimony of FBI Special Agent Matthew Tormey, and Government Exhibits 7009, 7010 and 7011 are reports he prepared in October 1994. Referring to those reports, Agent Tormey testified that on October 27, 1994, he conducted surveillance at 7th Avenue and 23rd Street in Brooklyn, New York. (GX 7008 at 1005.) He observed two individuals remove boxes from a U-Haul truck. (Id.) He then looked in the truck and found a load of hand-held video games and a lease agreement for the truck. (Id.) Government Exhibit 864 is the lease agreement, and Government Exhibits

865(a)-(e) are photographs of the truck and its contents. (Id. at 1006-07.) The agreement was signed by “Anthony Russo,” whom Agent Tormey later determined was born in 1939.¹⁴ (Id. at 1007, GX 864.) The photographs depict boxes of video games. (GX 7008 at 1007-08; GX 865(a)-(e).) Agent Tormey determined that the “Anthony Russo” who rented the truck had reported it stolen. (GX 7008 at 1008.)

* * *

The government respectfully submits that Russo’s testimony was credible and was corroborated. The Court observed him testify in a straightforward manner on both direct and cross-examination, and is familiar with his motivations and incentives. Based on the totality of his testimony and the extensive corroboration described above, Russo’s testimony should be credited.

In addition to the corroborative evidence described above, the government notes that Russo has been found credible by Judge Townes, who presided over the trial of Guerra and resolved numerous significant issues prior to sentencing Guerra. In particular, Judge Townes observed that, with respect to the Scopo murder:

[T]he testimony of Mr. Russo showed by a preponderance of the evidence that [Guerra] as well as he, Mr. Russo, helped plan it; that they got guns that [Guerra] came bringing in a gym bag; and that the defendant went to prison to discuss murder plans with Ted Persico; and that the group of them started to look for Mr. Scopo. He, [Guerra], along with Russo and others, met with Theodore Persico, Jr. at his grandmother’s funeral and received the okay or order to commit this murder.

(Transcript of Guerra Sentencing dated September 9, 2013 (attached in relevant part as Ex.

C) at 21.) Although Judge Townes did not need to determine at Guerra’s sentencing whether

¹⁴ Russo’s father was born in or around 1939.

or to what extent the defendant Michael Persico participated in the Scopo murder, her statement about Russo's testimony indicates that she credited Russo's account of how the murder was planned and carried out.

CONCLUSION

For the reasons set forth above, the government respectfully submits that it has proven by a preponderance of the evidence that the defendant Michael Persico participated in (1) racketeering; (2) the 1993 murder of Joseph Scopo; (3) loansharking; (4) extortion; and (5) a conspiracy to acquire and sell stolen video games.

Dated: Brooklyn, New York
September 21, 2016

Respectfully submitted,

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cc: Clerk of Court (DLI) (by ECF)
Defense Counsel (by ECF)
U.S. Probation Officer Mary Ann Betts (by email)

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1 (In open court; defendant present.)

2 COURTROOM DEPUTY: Criminal cause for Fatico
3 hearing, Docket No. 10-CR-147, United States versus Persico.
4 Please state your appearances.

5 MR. LIFSHITZ: Allon Lifshitz for the United States.
6 And also at counsel table are FBI Special Agent Chance Adam,
7 Probation Officer Mary Ann Betts, and a paralegal from our
8 office Olivia Lemons. Good morning, Your Honor.

9 THE COURT: Good morning to all of you.

10 MR. FERNICH: Good morning, Your Honor, Marc
11 Fernich.

12 Everybody will introduce themselves.

13 THE COURT: Of course. Good morning.

14 MR. SERCARZ: Good morning. For the defendant
15 Michael Persico, Maurice Sercarz.

16 THE COURT: Good morning.

17 MS. KEDIA: Good morning, Your Honor. Sarita Kedia
18 also for the defendant Michael Persico, who is seated to my
19 right. And also at counsel table is Diane Fischer.

20 THE COURT: Good morning to all of you.

21 So, we are here for a Fatico hearing. I believe the
22 Government is ready to proceed.

23 Just a couple of things that I wanted to put on the
24 record before we get started. I just wanted to acknowledge
25 receipt from Probation an addendum that was filed yesterday

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1 with respect to an outstanding issue of defendant's tax
2 filings. I'm not sure that this means that the defendant did,
3 in fact, provide the tax returns. I'm not clear on that.

4 PROBATION OFFICER: Yes, he did, Your Honor.

5 THE COURT: He did, okay. And apparently there's a
6 statement as well from IRS that he is current in all of his
7 tax filings, as I understand it.

8 There is the revised presentence report that was
9 also disclosed on July 29th based on the Court's rulings on
10 the objections that were discussed the last time that we were
11 here in June, and I'm just going to ask that within 14 days -
12 the deadline may be coming up - of its disclosure, if there
13 are any additional objections to the presentence report,
14 according to my standard requirements in criminal cases, if
15 you would please indicate that, or indicate that you have no
16 objections to the presentence report. I don't know if you've
17 had a chance to review it before today. If you want to state
18 on the record today whether or not you have any objections and
19 then we could set a schedule accordingly if that's what you
20 would like to do.

21 Any objections to the revised presentence report by
22 the Government? Have you had time to review it sufficiently?

23 MR. LIFSHITZ: We have, Your Honor. We don't have
24 objections.

25 THE COURT: Okay. Mr. Fernich?

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1 MR. FERNICH: We haven't made a determination yet,
2 Your Honor.

3 THE COURT: I can't hear you. It may be that the
4 mic is not on.

5 MR. FERNICH: It's not on.
6 Better?

7 THE COURT: Yes, now I can hear you.

8 MR. FERNICH: We haven't made a determination yet.
9 There may be a few more written ones and we'll submit them in
10 due course to the Court.

11 THE COURT: All right. Well, do you want me to set
12 a date for that to be done?

13 MR. FERNICH: Sure.

14 THE COURT: How much more time do you need for that?

15 MR. FERNICH: A week.

16 THE COURT: Okay. Just bear with me one second.
17 So, shall we say August 17th?

18 MR. FERNICH: That's fine, Judge.

19 THE COURT: Okay. I don't necessarily require the
20 objections to be posted on the docket, as long as Probation
21 and the Government get a copy, and I just need to get a hard
22 courtesy copy. One hard courtesy copy is fine.

23 If there are objections raised by the defense, then
24 I will need to get a response by the Government by September 1.

25 MR. LIFSHITZ: Yes, Your Honor.

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1 THE COURT: It's not necessary if the defense says
2 that there are no objections. Again, I only need one copy and
3 as long as Probation is provided a copy, you can provide it by
4 e-mail or hard copy, or however Probation would prefer you to
5 do that.

6 Is there anything that the parties would like to
7 address before we get started with the taking of evidence?

8 MR. LIFSHITZ: We just have one brief issue, Your
9 Honor.

10 THE COURT: Yes, sir.

11 MR. LIFSHITZ: Last night, Ms. Kedia filed a notice
12 of appearance in the case, the Court may have noticed. I
13 don't know if the Court is aware, Ms. Kedia originally
14 represented the defendant I believe beginning in 2010.

15 THE COURT: The name seemed familiar to me from the
16 docket.

17 MR. LIFSHITZ: She was lead counsel.

18 THE COURT: She represented Mr. Michael Persico,
19 correct, in the beginning of the case?

20 MR. LIFSHITZ: Correct, Your Honor. And she
21 withdrew, I believe, in May 2014.

22 My understanding was that she withdrew because, at
23 that time, the defense was making the breach motions that Your
24 Honor's aware of that was decided by Judge Townes.

25 THE COURT: Yes.

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1 MR. LIFSHITZ: Part of the defense theory was that
2 the Government breached based on conversations Ms. Kedia
3 participated in with government lawyers. Therefore, she could
4 have been a witness if there had been a hearing, which the
5 defense had requested at that time.

6 The issue has been resolved by Judge Townes.

7 THE COURT: Right.

8 MR. LIFSHITZ: I do expect the defense will appeal
9 on the issue and would request such a hearing if they succeed
10 on the appeal, so Ms. Kedia could in the future be a witness
11 in a hearing.

12 This is a little different from the situation where
13 a lawyer would have to testify at trial about the crimes that
14 are charged, but it's still something I wanted to bring to the
15 Court's attention in case the Court believes further inquiry
16 is appropriate.

17 THE COURT: Well, I made it clear back in June that
18 we are not relitigating the motion to withdraw the guilty plea
19 or any alleged breach of the plea agreement. That's been
20 settled by the decisions of Judge Townes, and I made it clear
21 that I was not going to revisit those issues.

22 The issues here are fairly narrow. They relate to
23 certain relevant conduct that's described in the presentence
24 report, including certain additional alleged extortion
25 activities, activities concerning some, I think, jukeboxes, if

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1 I'm correct, and also a homicide that the defendant is alleged
2 to, by the Government, to have participated in.

3 So, I don't know that that necessarily impacts any
4 of the issues concerning the withdrawal of the guilty plea or
5 breach of the agreement.

6 MR. LIFSHITZ: I agree the issues in the Fatico are
7 separate. I just didn't want to fail to advise the Court of
8 that possibility.

9 THE COURT: I appreciate that.

10 Ms. Kedia, would you like to be heard on that
11 question?

12 I ask lawyers, because I'm not sure if you appeared
13 before me or not, to just sit and speak into the microphone,
14 because otherwise it's a little difficult to hear. You should
15 each have access to -- some are flat microphones and some are
16 the high microphones. So whatever is convenient.

17 MS. KEDIA: Yes, Your Honor. Thank you. And I'll
18 move that microphone over so that if I have to speak in the
19 future, I won't have to switch chairs with Mr. Sercarz.

20 No, as I understand it, as the Court just stated,
21 the Court has made clear that it does not want to revisit the
22 breach issue or the plea withdrawal issue. That was the only
23 issue with respect to which I potentially could have been a
24 witness had there been a hearing. I don't believe that there
25 are any additional issues that would concern the Court in any

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1 way in terms of my appearance at this Fatico hearing or at any
2 future sentencing proceeding.

3 THE COURT: Okay. I'm not perceiving a problem
4 here.

5 Mr. Persico, are you understanding the issues that
6 we were discussing here?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: And are you okay with Ms. Kedia
9 proceeding to represent you during the course of this hearing?

10 THE DEFENDANT: Yes, I am.

11 THE COURT: All right. So that should be fine.

12 Anything else that the parties would like to raise
13 before we get started?

14 MR. LIFSHITZ: Not from the Government, thank you.

15 THE COURT: For the defense?

16 MR. FERNICH: No, ma'am.

17 THE COURT: All right. So why don't you call your
18 first witness.

19 MR. LIFSHITZ: Yes, Your Honor. The Government
20 calls Anthony Russo.

21 (Anthony Russo enters and takes the witness stand.)

22 THE COURT: Who's going to be cross-examining on
23 behalf of the defense?

24 MR. SERCARZ: I am, Your Honor.

25 MS. KEDIA: Your Honor, Mr. Sercarz is going to be

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1 cross-examining this witness and I'm going to be
2 cross-examining the next witness.

3 THE COURT: Perfect. Thank you.

4 COURTROOM DEPUTY: Please raise your right hand,
5 sir.

6 ANTHONY RUSSO,

7 called by the Government, having been first duly
8 sworn, was examined and testified as follows:

9 COURTROOM DEPUTY: Please be seated. Please spell
10 your name.

11 THE WITNESS: Anthony Russo, R-U-S-S-O.

12 COURTROOM DEPUTY: Thank you.

13 THE COURT: And Anthony the usual spelling?

14 THE WITNESS: Yes.

15 THE COURT: Good morning, sir.

16 THE WITNESS: Good morning.

17 THE COURT: I'm just going to ask you to keep your
18 voice up nice and loud and clear. Please speak slowly.

19 You can adjust the microphone so that you're
20 comfortable with it. If you want to bring it down on to the
21 table, that's fine. It's adjustable. You shouldn't have to
22 be right on top of it.

23 I see you have water there, but we do have more
24 water if you'd like. Just be careful with that pitcher. I
25 tell everybody we don't want you wearing the water; we want

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1 you drinking it.

2 You may inquire when you're ready, Mr. Lifshitz.

3 MR. LIFSHITZ: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MR. LIFSHITZ:

6 Q Mr. Russo, have you committed crimes in your life?

7 A Yes.

8 Q What is the worst crime you have committed?

9 A Murder.

10 Q Who did you murder?

11 A Joey Scopo.

12 Q Did you murder Joey Scopo on your own or with others?

13 A With others.

14 Q How was Joe Scopo murdered?

15 A He was shot.

16 Q With what kind of guns?

17 A A MAC-10, machine gun, and a pistol.

18 Q How did you and your co-conspirators get those guns?

19 A We asked Michael -- we had a plan to get Joey Scopo and

20 we asked Michael for -- that we needed guns for the hit.

21 Q Michael who?

22 A Persico.

23 Q Do you see Michael Persico here today?

24 A Yes, he's right there.

25 Q Can you please point him out and describe what he's

Russo - Direct / Lifshitz

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1 wearing?

2 A He's wearing looks like a blue sport coat, gray hair.

3 MR. SERCARZ: I'll stipulate to the identification.

4 THE COURT: It's so noted, the witness has
5 identified the defendant.

6 MR. LIFSHITZ: Thank you, Your Honor.

7 Q Mr. Russo, how old are you?

8 A 55.

9 Q Where did you grow up?

10 A In Brooklyn.

11 Q In what neighborhood or neighborhoods?

12 A I was born and raised -- born down in Court Street and
13 moved to Borough Park.

14 Q How far did you go in school?

15 A Eleventh grade.

16 Q At what age did you begin committing crimes?

17 A Sixteen.

18 Q When you were a teenager, what types of crimes did you
19 commit?

20 A I committed a lot of crimes: stealing trucks, robbing
21 houses, selling drugs.

22 Q Did you possess guns in your teens?

23 A Yes, I did.

24 Q Did you ever fire a gun over someone's head?

25 A Yes, I did.

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1 Q In your teens and into your early 20s, did you have any
2 legitimate jobs too?

3 A I had a couple.

4 Q What were your legitimate jobs?

5 A I had a trucking route. I worked -- I had a little -- my
6 own truck and I used to deliver produce to Red Apple
7 Supermarkets.

8 Q Did that job involve the Hunts Point Market?

9 A Yes, it did.

10 Q Did you also commit crimes at Hunts Point Market at that
11 time?

12 A Yes.

13 Q What did you do?

14 A I was selling cocaine and stealing trucks.

15 Q In addition to operating a truck, did you have any other
16 legitimate jobs in your teens and early 20s?

17 A Yeah, I drove an ambulette for an ambulance service.

18 Q Have you been involved in organized crime?

19 A Yes.

20 Q Approximately from when to when?

21 A Approximately from around the age of 15, 16.

22 Q Until what age?

23 A 'Til the day I was arrested in 2011.

24 Q With which crime families, if any, have you been
25 associated?

Russo - Direct / Lifshitz

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1 A Gambino and Colombo.

2 Q And what are the positions you have held in organized
3 crime?

4 A Associate, soldier, and acting captain.

5 Q Based on --

6 THE COURT: And, I'm sorry, acting captain?

7 THE WITNESS: Yes.

8 Q Based on your experience, what is the purpose of
9 organized crime?

10 A Organized crime, the basis for organized crime is to make
11 money for the family.

12 Q How many crime families are there in New York City?

13 A There are five.

14 Q Please name them.

15 A Genovese, Gambino, Bonanno, Colombo, Lucchese.

16 Q Do these families have a common structure?

17 A Yes, they do.

18 Q If you could start at the top, what are the common
19 positions in an organized crime family?

20 A The boss, underboss, consigliere, captains, soldiers,
21 associates.

22 Q Are you familiar with the term "administration" in
23 organized crime?

24 A Yes.

25 Q What's the administration?

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1 A Administration's the top three leaders: boss, underboss,
2 consigliere.

3 Q Do you know what it means to be in an "acting" position
4 in a crime family?

5 A Yes.

6 Q What does that mean?

7 A Acting, you're acting for the captain that's not around
8 at the moment.

9 Q Why are captains sometimes not around?

10 A Usually they're in jail most of the times when you're
11 acting for them.

12 Q Are you familiar with the term "official"?

13 A Yes.

14 Q What does that mean in organized crime?

15 A That's a permanent position.

16 Q You mentioned the term "associate."

17 What are the responsibilities of an associate in a
18 crime family?

19 A Associates are people that hang around and want to be
20 involved with people and they usually earn money for people
21 they're around, like the soldiers.

22 Q So who does an associate report to?

23 A Soldier.

24 Q Are there different types of associates?

25 A Yeah. There's earners, there's tough guys, guys that,

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15

1 you know, break legs and stuff like that.

2 Q What type were you?

3 A I was a supposedly a tough guy.

4 Q What are the responsibilities of a soldier in a crime
5 family?

6 A Soldiers, same thing almost as an associate, only you
7 make money, do what he has to do to make money, follow it up
8 to the top.

9 Q Is a soldier an inducted member of a crime family?

10 A Made member of the family, yes.

11 Q Is an associate an inducted member?

12 A No.

13 Q What about captain, what are a captain's responsibility?

14 A The captains run the crews and crews exist of soldiers
15 and associates.

16 Q Who does a captain report to, if anyone?

17 A Basically the underboss.

18 Q What are the responsibilities of the underboss?

19 A He's in charge of all the captains and make sure
20 everybody stays in line.

21 Q Does the underboss report to anyone?

22 A He usually reports to the boss, yes.

23 Q You mentioned a consigliere.

24 Is that a position?

25 A Yes.

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1 Q What is the responsibility of a consigliere?

2 A He's -- he's an advisor to the boss.

3 Q And what about the boss, what are the boss's
4 responsibilities?

5 A The boss is the boss. He oversees the whole family.

6 Q How does money flow in an organized crime family?

7 A Up to the top.

8 Q Is there a process by which an associate can become an
9 inducted member?

10 A Yeah, he has to -- he has to do what he has to do to
11 become a made member. He's got to be around a soldier.
12 Soldier's got to put him up for induction into the family.

13 Q Is there a term for putting someone up for induction?

14 A Put him up for induction, put him in -- I don't know.
15 Yeah, put him in for to become a wiseguy.

16 Q After someone's put up for induction, is there a next
17 step in the process?

18 A Yes, there's a list that goes around to all the other
19 five families.

20 Q What's the purpose of that list?

21 A That's so anybody in the other five families could check
22 out who's going to be straightened out and if they have a
23 problem, as long as it's not a personal problem, they can't
24 really deny anybody, but if there is a problem, they -- they
25 talk it out.

Russo - Direct / Lifshitz

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1 THE COURT: What do you mean by "see who is going to
2 be straightened out"?

3 THE WITNESS: Become a made member of the family.

4 Q So the families can review each other's lists, is that
5 what you're saying?

6 A Yes.

7 Q If someone makes it through the list part of the process,
8 how does the associate become inducted?

9 A There's a ceremony.

10 Q What are some of the rules of organized crime families?

11 A There's bunch of rules. One of the rules is that you
12 can't raise your hands to another made member of any crime
13 family. You're not supposed to be involved in any narcotics.
14 You're really not supposed to murder unless if it's okayed by
15 the boss. Cooperation with government or law enforcement is a
16 definite no-no.

17 Q At what age did you first become involved with organized
18 crime?

19 A Around 15, 16 years old.

20 Q Which family did you become involved with then?

21 A Gambino.

22 Q How did you become involved with the Gambinos?

23 A A soldier from the Gambino family took a liking to me,
24 and I was working at my father's fruit store down on Court
25 Street and he asked my father if I could hang around his club

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1 and I did.

2 Q At some time after you became involved with the Gambino
3 family, were you arrested?

4 A Yes.

5 Q In approximately what year?

6 A Ninety -- '86, '87.

7 Q What were you arrested for?

8 A Gun possession and drugs.

9 Q How did you resolve your case?

10 A I pled out.

11 Q What was your sentence?

12 A Five years probation.

13 Q Your sentence was five years probation?

14 A Right.

15 Q Did you commit crimes while you were on probation?

16 A Yes.

17 Q What types of crimes?

18 A I was selling drugs again.

19 Q What drugs were you selling at that time?

20 A Cocaine.

21 Q In 1987 after the arrest you've just described, were you
22 arrested again?

23 A Yes.

24 Q What had you done to get arrested?

25 A Assault.

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19

1 Q Describe what you did in the assault.

2 A I -- I beat a guy with a car jack.

3 Q Before you beat the guy with the car jack, did you beat
4 up someone else connected --

5 A Yes, his son.

6 Q Why did you beat up his son?

7 A He owed me money for drugs.

8 Q And why did you beat up the father?

9 A Because he came looking for me.

10 Q How badly did you beat the son and father?

11 A The son, I broke his jaw and the father, I -- pretty
12 badly. I broke his head open and broke his shoulder.

13 Q Did you go to trial?

14 A Yes.

15 Q What happened?

16 A I got convicted.

17 Q What was your sentence?

18 A Five-and-a-half to twelve, something like that.

19 Q Was this in the state system or the federal system?

20 A State.

21 Q Where were you imprisoned during that sentence?

22 A I was upstate in Coxsackie, maximum security, a
23 mid-orange medium facility.

24 Q When you were in Coxsackie, was there anyone there that
25 you knew?

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1 A Yes.

2 Q Who was that?

3 A "Teddy Boy."

4 Q What's his full name, his real name?

5 A Teddy Persico.

6 Q Is he a junior or a senior?

7 A He's a junior.

8 Q So Teddy Persico, Junior?

9 A Yes.

10 Q And you call him "Teddy Boy"?

11 A Yes.

12 MR. LIFSHITZ: Your Honor, may I show him exhibit
13 156?

14 THE COURT: That's for identification?

15 MR. LIFSHITZ: Yes.

16 (The above-referred to exhibit was published.)

17 BY MR. LIFSHITZ:

18 Q Mr. Russo, do you recognize this person?

19 A Yes.

20 Q Who's that?

21 A Teddy.

22 Q Teddy Persico, Junior?

23 A Yes.

24 MR. LIFSHITZ: We would move to admit 156.

25 THE COURT: Any objection?

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21

1 MR. SERCARZ: No, Your Honor.

2 THE COURT: It's admitted.

3 MR. LIFSHITZ: Thank you.

4 (Government's Exhibit 156 was received in evidence.)

5 BY MR. LIFSHITZ:

6 Q When you were in prison with Teddy Persico, Junior, what
7 role, if any, did he have in organized crime?

8 A He was a made member of the Colombo family.

9 Q Who was the boss of the Colombo family at that time?

10 A Carmine Persico.

11 Q Where was Carmine Persico?

12 A In jail.

13 Q What's the relationship, if any, between Carmine Persico
14 and the defendant in this case, Michael Persico?

15 A Carmine's Michael's father.

16 Q Does Michael Persico have brothers that you know?

17 A Yes.

18 Q Who are they?

19 A Alphonse Persico, Lawrence Persico.

20 Q And what is the relationship between Michael Persico and
21 the man in this exhibit, Teddy Persico, Junior?

22 A They're cousins.

23 Q When you were in prison with Teddy Persico, Junior, what
24 sort of relationship did you have with him, if any?

25 A I was dear friends with Teddy.

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1 Q Did you two discuss your role in organized crime?

2 A Yes.

3 Q What, if anything, did he say about that?

4 A He said he wanted me around him.

5 Q What does it mean in organized crime to "be around
6 someone"?

7 A It means you're on record with them and that you're
8 protected by that family.

9 Q Do you have obligations to someone you're around?

10 A Sure, you do.

11 Q What?

12 A Whatever they need you to do, so be it beating somebody
13 up, whatever.

14 Q Are there any obligations relating to money?

15 A I don't understand your question.

16 Q If you're around someone, do you have any obligations
17 to --

18 A Sure, if you make money, you got to send it up.

19 Q After Teddy Persico, Junior said he wanted you around
20 him, what effect, if any, did that have on your role in
21 organized crime?

22 A What effect did it have on me?

23 Q Yes.

24 A When Teddy asked me to be around him?

25 Q Yes.

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23

1 A What kind of effect did it have on me? I don't
2 understand.

3 Q Let me ask you this.

4 Before you went to -- started serving that prison
5 sentence, what crime family were you associated with?

6 A Gambinos.

7 Q When you came out of Cocksackie, who were you associating
8 with?

9 A I was associating with the Colombos.

10 Q And why was that?

11 A Because I was released and put with Teddy.

12 Q When were you released from state prison?

13 A I really don't know. All I know is Teddy told me his
14 father would take care of it.

15 Q Do you remember around what year you were released?

16 A More than likely before I got home.

17 Q I'm sorry. When you say "released," what do you mean by
18 "released"?

19 A Released from the Gambino crime family.

20 Q Okay. I think we had an ambiguity. I meant released
21 from prison.

22 A Prison, okay.

23 Q When were you released from state prison?

24 A 1992, late '92.

25 Q And where was Teddy Persico, Junior when you were

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1 released?

2 A In jail.

3 Q So who, if anyone, did you report to in organized crime
4 when you were released?

5 A Uncle Teddy.

6 Q Who is Uncle Teddy?

7 A Teddy's father.

8 Q What's his full name?

9 A Teddy Persico, Senior.

10 Q And just to be clear, what's the relationship between
11 Teddy Persico, Senior and Carmine Persico, who you testified
12 was the boss?

13 A They're the brothers.

14 THE COURT: You mentioned something about being
15 released from the Gambinos. Can you explain what that means?

16 THE WITNESS: Being released meaning I was on record
17 with them and Uncle Teddy straightened it out and brought me
18 over to him. So they released me and brought me over and I
19 was on record with the Colombos.

20 MR. LIFSHITZ: Your Honor, I'd like to show
21 Government Exhibit 152B for identification.

22 (The above-referred to exhibit was published.)

23 Q Mr. Russo, do you recognize this person?

24 A Yes.

25 Q Who's that?

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1 A It's Alphonse Persico.

2 Q It's the Alphonse Persico that you testified is Michael
3 Persico's brother?

4 A Yes.

5 MR. LIFSHITZ: I'd move to admit 152B, Your Honor.

6 THE COURT: Any objection?

7 MR. SERCARZ: No, Your Honor.

8 THE COURT: It's admitted.

9 (Government's Exhibit 152B was received in
10 evidence.)

11 BY MR. LIFSHITZ:

12 Q While you've been involved with the Colombo family, what
13 position, if any, did Alphonse Persico hold with the family?

14 A He was a made member and he was a captain, and when he
15 came home, when I was around, he was a acting boss.

16 MR. LIFSHITZ: I'd like to show Government
17 Exhibit 155 for identification.

18 (The above-referred to exhibit was published.)

19 BY MR. LIFSHITZ:

20 Q Do you recognize that person?

21 A Yes.

22 Q Who is that?

23 A It's Michael.

24 Q Michael Persico?

25 A Yes.

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1 MR. LIFSHITZ: I'd move to admit 155, Your Honor.

2 THE COURT: Any objection?

3 MR. SERCARZ: No, Your Honor.

4 THE COURT: It's admitted.

5 (Government's Exhibit 155 was received in evidence.)

6 MR. LIFSHITZ: And finally for now, I'd like to show
7 Government Exhibit 167 for identification.

8 (The above-referred to exhibit was published.)

9 BY MR. LIFSHITZ:

10 Q Who's this?

11 A It's me.

12 MR. LIFSHITZ: I move to admit 167.

13 THE COURT: Any objection?

14 MR. SERCARZ: No, Your Honor.

15 THE COURT: Thank you.

16 (Government's Exhibit 167 was received in evidence.)

17 BY MR. LIFSHITZ:

18 Q Going back to Teddy Persico, Senior.

19 What positions did he hold in the crime family while
20 you were involved with it?

21 A Teddy Senior?

22 Q Teddy Senior.

23 A When I came home, he was captain.

24 Q Did you meet him in person when you were released in
25 1992?

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1 A Yes, I met him the same day I came home from prison.

2 Q At what location?

3 A On 11th Avenue in Brooklyn.

4 Q What was at 11th Avenue?

5 A It was Romantique was down there.

6 Q What is Romantique?

7 A It's a limousine company.

8 Q Who owned it?

9 A Michael.

10 Q Michael who?

11 A Persico.

12 Q I think you said it was on 11th Avenue; is that right?

13 A Yeah, 11th Avenue, 67th Street.

14 THE COURT: In what borough?

15 THE WITNESS: In Brooklyn.

16 Q Do you recall any other locations Romantique had over the
17 years?

18 A Yes, 86th Street off 14th Avenue. There's another place
19 in Staten Island on Hyland Boulevard.

20 Q When you mentioned 86th Street, is that in Brooklyn too?

21 A Yes.

22 Q When you met Teddy Persico, Senior at Romantique the day
23 you were released, what, if anything, did he say to you?

24 A He told me to, "Be careful, stay out of trouble, and if
25 you have any problems, come see me."

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1 Q What did you understand that to mean?

2 A If I had any problems, to come see him and he would
3 handle it.

4 Q Were you around him at that point?

5 A Yes.

6 Q Who else was around him at that time, 1992?

7 A Mostly all "Teddy Boy's" guys: me, BF, Bobby Tarantola,
8 Anthony Ferrara, Frankie Sparaco.

9 Q You mentioned a BF.

10 Is that a nickname?

11 A Yes.

12 Q What's BF's real name?

13 A Frank Guerra.

14 MR. LIFSHITZ: I show the witness Government
15 Exhibit 130A for identification.

16 (The above-referred to exhibit was published.)

17 BY MR. LIFSHITZ:

18 Q Who's depicted in 130A?

19 A Frankie.

20 Q Frankie who?

21 A Guerra.

22 MR. LIFSHITZ: I move to admit 130A, Your Honor.

23 THE COURT: Any objection?

24 MR. SERCARZ: No, Your Honor.

25 THE COURT: It's admitted.

1 (Government's Exhibit 130A was received in
2 evidence.)

3 BY MR. LIFSHITZ:

4 Q Around when did you meet Guerra?

5 A Excuse me?

6 Q Around when did you first meet Guerra?

7 A Around '82, '83.

8 Q 1982 or '83?

9 A Yes.

10 Q Did you two develop a relationship?

11 A Yes.

12 Q How close were you?

13 A Very close.

14 Q Until when?

15 A Until the day I was arrested in 2011.

16 Q When you were released from state custody in 1992, were
17 you subject to any rules or court supervision?

18 A Yes.

19 Q What do you recall being subject to?

20 A I was subject to staying out of trouble and not
21 associating with felons, known felons, and I have to go to
22 work and stay clean of everything.

23 Q Did you live at home at that time?

24 A I lived with my parents for a couple months, yes.

25 Q When you were first released?

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1 A Yes.

2 Q Did you break any of the rules you just mentioned?

3 A Yeah. Yes.

4 Q You said one of the rules was to have a job.

5 Did you get a job?

6 A Yes.

7 Q Did you actually go to the job?

8 A No.

9 Q Were you ever in a halfway house?

10 A Yes, I was.

11 Q When you were released from prison in 1992 and you began
12 reporting to Teddy Persico, Senior, what was happening in the
13 Colombo family?

14 A There was a family feud going on. It was an internal
15 war.

16 Q What were the sides in that war?

17 A There was the Persico faction against the Orena faction.

18 Q Orena, who's that named after?

19 A Vic Orena. He was the acting boss at the time.

20 Q The acting boss of the Colombo family?

21 A Yes.

22 Q And just to be clear, who was the Persico faction named
23 after?

24 A Carmine Persico.

25 Q Who were some of the leaders on the street in the Persico

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1 faction?

2 A Who was in the street at the time, Chucky Russo, JoJo
3 Russo, Uncle Teddy, Joe Monte, Tommy Gioeli.

4 Q Were the two Russos you just mentioned related to you?

5 A No, not at all.

6 Q And when you mentioned Uncle Teddy, is that Teddy
7 Persico, Senior?

8 A Yes.

9 Q And what about the other side, the Orena faction, who
10 were some of the leaders on that side?

11 A You had Joey Scopo, you had "Wild Bill" Cuotolo.

12 Q What was at stake in this war?

13 A The family, taking over the family.

14 Q Who was trying to take over the family?

15 A Vic Orena.

16 Q Moving ahead to 1993.

17 What, if anything, happened to Teddy Persico,
18 Senior?

19 A He was arrested.

20 Q And around the time of his arrest, who else, if anyone,
21 do you recall being arrested from the Colombo family?

22 A A few people were arrested: Frankie Sparaco, Chucky, JoJo
23 Russo, Joe Monte.

24 Q By the way, you've mentioned Joe Monte a couple of times.

25 Was there one Joe Monte or more than one?

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1 A Well, he had a son.

2 Q And the one you've testified about was which one, the
3 father or the son?

4 A The father.

5 Q So, after Teddy Persico, Senior was arrested in 1993,
6 who, if anyone, did you and Frank Guerra report to?

7 A Well, we were hanging out with Michael.

8 Q Michael who?

9 A Persico.

10 Q Now, what was Michael Persico's position in the crime
11 family?

12 A He didn't have one. He was an associate.

13 Q Is it common in organized crime for an associate to
14 report to another associate?

15 A Not really, no.

16 Q So why did you report to an associate?

17 A Because we were really close with Michael and his
18 father's the boss and we didn't trust anybody else.

19 MR. SERCARZ: Your Honor, I'll move to strike the
20 witness's opinion, no basis for it.

21 MR. LIFSHITZ: His opinion of why he did something.

22 THE COURT: Can I hear the last two questions and
23 answers, please?

24 (The requested portion of the record was read back
25 by the Official Court Reporter.)

1 THE COURT: Overruled.

2 BY MR. LIFSHITZ:

3 Q When you reported to Michael Persico, where, if anywhere,
4 would you meet with him?

5 A Excuse me?

6 Q When you reported to Michael Persico in or around 1993,
7 where did you meet him, if anywhere?

8 A Wherever -- wherever he was, Romantique, 11th Avenue, the
9 bus company he had in Coney Island, restaurants, wherever.

10 Q What crimes, if any, did you discuss with him?

11 A I used to take money from him and shylock it.

12 Q What's shylock?

13 A Shylock is lending money to people for a percentage to
14 owe every week.

15 Q Is that loansharking?

16 A Yes.

17 Q Okay. We'll return to that topic later.

18 At that time in 1993, did you observe whether anyone
19 else you knew to be in the Colombo family met with Michael
20 Persico?

21 A Michael met with a few people, yeah.

22 Q Who did you see meeting with him?

23 A I seen him meet with Joe Bonanza, met with all of us all
24 the time.

25 Q When you say "all of us," who do you mean?

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1 A Meaning Teddy's guys, me, BF, Bobby Tarantola, Little
2 Anthony used to show up.

3 Q What were the positions of those people?

4 A All associates.

5 Q Did you become involved in the Colombo family war?

6 A Yes, I did.

7 Q On what side?

8 A The Persico.

9 Q And in what year did you become involved?

10 A The minute I got home in 1992.

11 Q After you became involved on the Persico side, did you
12 ever plan to commit a murder?

13 A Yes.

14 Q Who did you first plan to murder?

15 A "Wild Bill" Cuotolo.

16 Q "Wild Bill" Cuotolo?

17 A Yeah.

18 Q What was his position in the crime family?

19 A He was like a captain in the family, I guess.

20 Q On which side of the war?

21 A On the Orena side.

22 Q Who, if anyone, were you planning with to kill "Wild
23 Bill" Cuotolo?

24 A Me, BF, Bobby Tarantola, Danny Persico, Little Anthony
25 Ferrara, Eric Curcio.

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1 Q You mentioned a Danny Persico.

2 Who's is that?

3 A That's Michael's cousin. That's "Teddy Boy's" brother.

4 Q Teddy Persico, Junior's brother?

5 A Yes.

6 Q With who, if anyone, did you discuss the plan to murder
7 "Wild Bill" Cuotolo?

8 A Well, we told Michael about it.

9 Q Who told Michael about it?

10 A Me, BF.

11 Q When you say "Michael," which Michael do you mean?

12 A Michael Persico.

13 Q What do you recall saying to him in substance?

14 A Told him that we almost had him a couple of times. We
15 would tell him what we were doing.

16 Q What does that mean, you almost had him certain times?

17 A We almost killed him a couple times.

18 Q Killed who?

19 A "Wild Bill."

20 Q After you planned to murder "Wild Bill," who, if anyone,
21 did you next intend to murder?

22 A Joey Scopo.

23 Q And what was Joey Scopo's role in the crime family?

24 A He was like number 2 on the Vic Orena side.

25 Q Who, if anyone, got you involved in planning to murder

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1 Joe Scopo?

2 A Well, it all started when Michael asked me to go down and
3 see Eric. He said he had a line on Joey.

4 Q You mentioned Michael.

5 Who is that?

6 A Michael Persico.

7 Q And you said he told you to see Eric.

8 Who is Eric?

9 A He told me and BF, "You have to go down and see Eric
10 Curcio."

11 Q And you said Eric had a line on Joey; is that right?

12 A Yes.

13 Q What did you understand that to mean?

14 A It's meant that he knew where he was and --

15 MR. SERCARZ: Objection.

16 THE COURT: Overruled. He's asking what the witness
17 understood him to mean by that. Overruled.

18 Q Sorry, you can answer the question.

19 A Can you repeat it?

20 Q What did you understand Michael Persico meant when he
21 said that Eric Curcio had a line on Joe Scopo?

22 A That -- that I understood it was to go see Eric and he
23 knew where Joey was and we could do what we had to do and kill
24 him.

25 MR. LIFSHITZ: I'd like to show what's marked as

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1 Government Exhibit 112B for identification.

2 (The above-referred to exhibit was published.)

3 BY MR. LIFSHITZ:

4 Q Do you recognize this person?

5 A Yeah, that's Eric.

6 Q Eric who?

7 A Curcio.

8 MR. LIFSHITZ: We would move to admit 112B.

9 THE COURT: Any objection?

10 MR. FERNICH: None, Your Honor.

11 THE COURT: Thank you. It's admitted.

12 (Government's Exhibit 112B was received in
13 evidence.)

14 BY MR. LIFSHITZ:

15 Q Can you tell us or remind us what was Eric Curcio's
16 position in the Colombo family?

17 A He was an associate.

18 Q Who, if anyone, did he say he was related to?

19 A He said he was related to Joe Monte, Senior.

20 Q And what was Joe Monte's position?

21 A He was a made member of the Colombo crime family.

22 Q When Michael Persico told you to see Eric Curcio about
23 Joe Scopo, were you interested in killing Scopo?

24 A Yes.

25 Q Why were you interested in that?

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1 A To further advance in the family and to help my friend
2 Teddy out.

3 Q How would it help Teddy?

4 A Because getting rid of Joey, the war would end and the
5 Persicos would hold on to control of the family.

6 Q So, did you go see Eric Curcio?

7 A Yes, I did.

8 Q And what, if anything, did he say to you?

9 A He told me and BF that he knew exactly where Joey was and
10 if we were willing to kill Joey and to put a crew together.

11 Q What did you say?

12 A We said yes.

13 Q Who else, if anyone, became part of this crew? Who next
14 became part of this crew?

15 A Well, we put it together, me, BF, Robert Tarantola, Eric
16 Curcio, Little Anthony Ferrara.

17 Q Was that the original?

18 A That was the original, yeah.

19 Q Who became involved next, if anyone?

20 A Then a little bit down the road, Johnny Sparacino got
21 involved. Eric brought him into it.

22 MR. LIFSHITZ: I show Government Exhibit 176 for
23 identification.

24 (The above-referred to exhibit was published.)

25 ///

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1 BY MR. LIFSHITZ:

2 Q Do you recognize the person in 176?

3 A Yeah, that's Johnny Sparacino.

4 Q You may have just said this, but who brought him into the
5 plan?

6 A Eric Curcio.

7 Q After you and Guerra met with Michael -- sorry, after you
8 and Guerra met with Curcio to initially discuss killing Scopo,
9 did you ever discuss that again with --

10 THE COURT: I'm sorry, did you move Government
11 Exhibit 176 into evidence?

12 MR. LIFSHITZ: I may have neglected to, Your Honor.
13 I'm sorry.

14 Move to admit 176.

15 THE COURT: Any objection?

16 MR. SERCARZ: No, Your Honor.

17 MR. LIFSHITZ: Thank you.

18 THE COURT: It's admitted.

19 (Government's Exhibit 176 was received in evidence.)

20 BY MR. LIFSHITZ:

21 Q After you initially discussed Joe Scopo with Eric Curcio,
22 did you say anything about that to Michael Persico?

23 A Yes.

24 MR. SERCARZ: Your Honor, I'm going to object to the
25 leading.

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1 THE COURT: Well, I'm going to overrule. Just be
2 careful with the wording.

3 MR. LIFSHITZ: Understood, Your Honor.

4 Q Did you understand the question?

5 A I didn't even hear it.

6 Q After you met with Eric Curcio about Joe Scopo, did you
7 discuss that with Michael Persico?

8 A Yes, I did.

9 Q Who were you with, if anyone?

10 A BF.

11 Q What, if anything, did you and BF say?

12 A We told him what our plans were and he said okay, and I
13 told him that we needed weapons and he said, "No problem, we
14 have plenty," and he pointed to Smiley and he told BF, "You
15 got Smiley's number. Smiley will bring you a bag."

16 Q Who was Smiley?

17 A Smiley's an associate of the family.

18 Q Of the Colombo family?

19 A Yes.

20 Q Did you and BF obtain guns after that?

21 A Yes, we did.

22 Q Who showed you the guns?

23 A BF brought them to my house.

24 Q How long after this meeting with Michael Persico did BF
25 show you the guns?

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1 A The same day.

2 Q How were the guns packaged, if at all?

3 A The big gym bag, duffel bag, big black bag.

4 Q Do you remember what kinds of guns were in there?

5 A The MAC-10 was in there with the silencer. There was a
6 couple of broken down silencers in there with a couple of
7 pistols.

8 Q A MAC-10 with a silencer, you said?

9 A Yes.

10 Q And a pistol?

11 A Couple pistols, yes.

12 Q What, if anything, did BF tell you about how he obtained
13 those guns?

14 A Excuse me? I didn't hear you.

15 Q What, if anything, did BF say to you about how he got
16 those guns?

17 A He just brought them over, and I told him, "Where did you
18 get them?" He said, "I just picked them up from Smiley."

19 Q During the planning of the Scopo murder, where was Teddy
20 Persico, Junior?

21 A In prison.

22 Q Did anyone close to you visit him?

23 A Yes, BF visited him a lot.

24 Q What, if anything, did BF tell you about that?

25 A He told me that he laid it all out to Teddy, told him all

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1 we had planned on doing.

2 Q And what, if anything, did BF report Teddy said?

3 A Teddy said to make sure --

4 MR. SERCARZ: Objection, Your Honor. There are
5 multiple levels of hearsay.

6 MR. LIFSHITZ: Your Honor, these are --

7 THE COURT: Go ahead, you can argue. We don't have
8 a jury here.

9 MR. LIFSHITZ: These are members and associates of a
10 crime family planning a murder. They're clearly
11 co-conspirator statements made in furtherance of a conspiracy.

12 THE COURT: Overruled. This is a hearing. There's
13 some relaxation of the rules.

14 BY MR. LIFSHITZ:

15 Q I'll try to repeat the question, Mr. Russo.

16 What, if anything, did BF tell you Teddy Persico
17 said in those meetings?

18 A He told me that he told Teddy about everything we were
19 planning on doing and he said to "make sure you get it done."

20 Q Who said "make sure you get it done"?

21 A Teddy.

22 Q What, if any, concerns did Teddy Persico express to BF?

23 A Well, one concern was about me.

24 Q What was that?

25 A That he wanted to make sure that I was capable.

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1 Q Capable of what?

2 A Handling this, you know, getting involved with the
3 murder.

4 Q Did you say anything to BF about that?

5 A Yeah, I said a couple things.

6 Q What did you say?

7 A One of them is I told him that, "Don't worry about me. I
8 did something long ago with Munchie."

9 Q What were you trying to convey when you said that?

10 A Well, he knew what I meant. He meant I was conveying
11 that I committed a murder with Munchie.

12 Q Was that true?

13 A No.

14 Q Why did you say it?

15 A So everybody would be calm and relaxed and understand
16 that I could take care of it. Just to reassure everybody.

17 Q After you saw the bag containing the MAC-10 and the
18 pistol you testified about, what person or people did you look
19 to kill?

20 A Excuse me? Say that again.

21 Q After BF showed you the guns in the bag.

22 A Right.

23 Q Who did you look to kill? What person or persons did you
24 look to kill?

25 A Well, we were going after Billy, but, I mean, yeah,

1 Billy, and we just stopped and we started focusing on Joey a
2 lot.

3 Q And when you say "Billy," who is that?

4 A "Wild Bill" Cuotolo.

5 Q And "Joey" refers to?

6 A Joey Scopo.

7 Q Did you or anyone you were making these plans with ever
8 actually kill "Wild Bill" Cuotolo?

9 A No.

10 Q Did you come close?

11 A Yes.

12 Q What happened?

13 A One night we were just driving around, me, Johnny Pappa
14 and BF, and we just happened to get lucky going down his block
15 where he lived and we caught Billy coming out of a car right
16 in front of his house, but he was reaching for the back door
17 on the passenger side and when he opened the door, we were a
18 few cars behind, an older woman just got out of the backseat.
19 So I pulled John Pappa back in the car, told him forget it.

20 Q Why did you tell him to forget it?

21 A 'Cause I didn't want any innocent people getting hurt.

22 Q At some point during the planning of the Scopo murder,
23 did you meet with Teddy Persico, Junior in person?

24 A Excuse me?

25 Q At some point during the planning of the Scopo murder,

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1 did you meet with Teddy Persico, Junior?

2 A Yes, yes.

3 Q Approximately when did you meet him?

4 A I'm going to say the summertime. His grandmother passed
5 away, I think it was '94. I'm not hundred percent sure.

6 Q What time of year was it?

7 A It was -- it was warm out. It was the summertime some
8 time.

9 Q And to be clear, was it before or after the Joe Scopo
10 murder?

11 A It was before the Scopo murder.

12 Q What was the location where you met?

13 A The funeral parlor, Scarpaci's Funeral Parlor.

14 Q Where is that?

15 A 14th Avenue and 86th Street.

16 Q In Brooklyn?

17 A Yes.

18 Q If he was in jail, what's your understanding of why he
19 was able to be there?

20 A Well, I was in state prison too and when you lose a
21 family member and it's immediate family, they usually bring
22 you down for so you could view the body for a couple hours and
23 they bring you back.

24 Q What happened when you saw Teddy Persico, Junior at the
25 Scarpaci Funeral Home?

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1 A Well, when he got there, we were there, me, Bobby and BF,
2 and he went up to the casket. He said a prayer to his
3 grandmother, and he came back. As he was walking back, he
4 wanted to speak to me and Bobby and BF.

5 Q Bobby who?

6 A Tarantola.

7 Q And what, if anything, did Teddy say to the three of you?

8 A We were explaining to him what we were doing again and he
9 was asking us how things were going and he said, "You got to
10 get it done and I want my guys to do it."

11 Q When he said "you got to get it done," what did you
12 understand that to refer to?

13 A Make sure we kill him.

14 Q Kill who?

15 A Joey Scopo.

16 Q And when he said he wanted his guys to get it done, what
17 did you understand that to mean?

18 A He wanted us to get it done, me, Bobby and BF.

19 Q Did you agree to do that?

20 A Yes.

21 Q After that, did you look for Joe Scopo?

22 A Yes.

23 Q Who was involved in the crew to kill Joe Scopo by this
24 point?

25 A The day Joey got killed, it was me, BF, Eric Curcio,

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1 Johnny Pappa, and John Sparacino.

2 MR. LIFSHITZ: I show Government Exhibit 151 for
3 identification.

4 (The above-referred to exhibit was published.)

5 A That's Johnny Pappa.

6 Q 151 is Johnny Pappa?

7 A Yes.

8 MR. LIFSHITZ: I'd move to admit 151, Your Honor.

9 THE COURT: Any objection?

10 MR. SERCARZ: No, Your Honor.

11 THE COURT: Admitted.

12 (Government's Exhibit 151 was received in evidence.)

13 BY MR. LIFSHITZ:

14 Q How did Pappa become involved in the planning?

15 THE COURT: I'm sorry, can you spell the name?

16 MR. LIFSHITZ: John, the usual way, and Pappa,
17 P-A-P-P-A.

18 THE COURT: Thank you.

19 Q How did John Pappa become involved in the planning?

20 A Eric Curcio brought him around.

21 Q After the funeral you testified about, did you and the
22 crew ever come close to murdering Scopo without actually
23 killing him?

24 A Yes, one time, yeah.

25 Q Tell us what happened.

1 A We were setting up near his house I think in Canarsie and
2 we were just -- there was two crash cars, and me and BF and
3 Johnny Pappa were in -- we were going to be the shooters at
4 that time, and we were going around the block looking for a
5 spot to park and we came around the block and there was
6 somebody, like, basically his whole body was in the garbage
7 can, like he was looking in the garbage can, and we didn't
8 know who it was, so we were still looking for the spot. When
9 we came back around, Joey was walking up the stairs to his
10 house and we realized it was him, and it was a big joke. We
11 just called it off 'cause he was too close to his front door.

12 Q The Joey you mentioned was Joe Scopo?

13 A Joe Scopo, yes.

14 Q And I believe you used the phrase "crash car"; is that
15 right?

16 A Crash cars, yeah.

17 Q What is a crash car?

18 A We use them to -- on the hit because you need cars behind
19 you to block in case anybody tries to get involved to be sure
20 the shooters can get away.

21 Q They block off the street?

22 A They block off the street. They block off any law
23 enforcement tries to get -- intervene.

24 Q After this incident where you saw Joe Scopo but didn't
25 kill him, did you discuss it with anyone?

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1 A Yeah. Yeah.

2 Q With who?

3 A We discussed it with a few people. We told Michael about
4 it too.

5 Q Michael who?

6 A Persico.

7 Q What did you say to him, if anything?

8 A Well, we made it like a joke, that we almost had him and
9 he was in the garbage can and when we came around the block
10 again, he was walking up the stairs and we didn't know it was
11 him.

12 Q What, if anything, did Michael Persico say back?

13 A He said, "You got to get this thing done before my
14 brother goes to trial."

15 Q Did he have a brother who was close to going to trial?

16 A Yeah, "Allie Boy."

17 Q Alphonse Persico?

18 A Yes.

19 Q Where was Alphonse Persico at that time?

20 A In jail.

21 Q And what was your understanding of why it was important
22 to kill Scopo before Alphonse Persico went to trial?

23 MR. SERCARZ: Objection.

24 THE COURT: It's his understanding of why it was
25 important. Overruled.

1 You may answer the question.

2 A My understanding was it was supposed to be done before is
3 because at least he would have an albi. He's in jail, he had
4 nothing to do with it.

5 Q Alphonse --

6 A That's my understanding of it, yeah. Alphonse Persico.

7 Q Alphonse would have the albi; is that right?

8 A Yes, and to get it done and once that was done, the
9 family would come back in order.

10 Q After that conversation, did you continue to look for
11 Scopo?

12 A Yes.

13 Q Did you have any trouble finding him?

14 A Yeah, we had some problems.

15 Q What was the problem?

16 A He moved. He moved to another area. We didn't know
17 where he was.

18 Q Did you ever look for him anywhere other than near his
19 home?

20 A Yes, we went near his club. He had a club, social club
21 on 101st Avenue in Ozone Park.

22 Q What is a social club?

23 A It's where guys hang out and just meet, play cards.

24 Q What kind of guys?

25 A Guys like me, you know, members of the Mafia.

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1 Q What happened when you looked for him outside a social
2 club?

3 A Well, we went to the club one night and he was -- we
4 couldn't see, we couldn't find him, so we went by the club to
5 see if we found him. So, I know he didn't know me, so I got
6 out of the van and I took a walk past his club, I didn't see
7 him. So I went around the block and I was -- had a radio on
8 me and a pistol, and as I was going around the block just to
9 take a walk, I was going to smoke a cigarette and I -- the
10 radio cracked through and said it was Frankie on the radio
11 telling me, "He's right behind you."

12 Q Frankie who?

13 A BF.

14 Q Okay, go on.

15 A And I was standing in front of somebody's -- in front of
16 their house and when I turned around, he was right behind me.

17 Q Who was right behind you?

18 A Joey and a friend of his Sal.

19 Q Joe and Sal?

20 A Joe and Sal.

21 Q What happened next?

22 A I was ready to -- I was pulling out my pistol, but at the
23 same time I was grabbing my gun, the lady came out of the
24 front of the house like two feet from me with two little --
25 two kids, and at the same time, Joey was walking right by me.

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1 So I just turned and walked away.

2 Q Did you and your crew eventually succeed in murdering Joe
3 Scopo?

4 A Yes, we did.

5 Q Around when did you murder Joe Scopo?

6 A Late '93.

7 Q Where?

8 A Ozone Park. I don't remember the exact street. It was
9 between 109th Avenue and I think 111th Street, I'm not sure,
10 110th Street.

11 Q Repeat what you just said?

12 A I said like 110th Street, 109th Avenue in Ozone Park,
13 Queens in front of his house.

14 Q How did you locate him?

15 A Eric. Eric found out where he was.

16 Q Eric Curcio?

17 A Yes.

18 Q So, when Joe Scopo was actually murdered, who was present
19 on that scene?

20 A Me, Johnny Pappa, John Sparacino, Frankie Guerra, BF, and
21 Eric Curcio.

22 Q Was there a plan?

23 A Yeah.

24 Q What was each person's role in the plan?

25 A Eric was a crash car, BF was a crash car, I was a driver

1 of the getaway car, and John Sparacino was in the backseat, he
2 was the shooter, he had the MAC-10, and John was there, Pappa
3 was for backup just in case.

4 Q So how many cars were there in total?

5 A Three.

6 Q You were driving one of them?

7 A I was driving the one, yes.

8 Q Just to be clear, who, if anyone, was in your car?

9 A John Sparacino and Johnny Pappa.

10 Q And BF and Curcio?

11 A BF was behind me in his car and Eric was on the corner
12 blocking the street off.

13 Q In a separate car?

14 A In a separate car, yes.

15 Q I think we were saying that was the plan.

16 Did you, in fact, drive Sparacino and Pappa during
17 the murder?

18 A Yes.

19 Q In what kind of car?

20 A It was a stolen car I think it was -- I don't remember
21 the exact make. It might have been a Chevy, brown.

22 Q What do you remember about what it looked like?

23 A Excuse me?

24 Q What, if anything, do you recall about what it looked
25 like?

1 A It was a four-door I think brown or beige car.

2 Q You said it was a stolen car?

3 A Yes.

4 Q How did you start the car?

5 A With a screwdriver.

6 Q Did you have any way to communicate among the three cars?

7 A Yes, we had radios, walkie-talkies.

8 Q Please walk us through what happened on the night of the
9 murder.

10 A On the night of the murder, we got to his house. We used
11 to set up on the corner of his house if we went by there. So
12 when set up on the corner, the night of the murder, when we
13 got there, we were just pulling up and setting up where we
14 went and park, and not even two minutes there we -- he turned
15 the corner and Eric turned around and said there he is. So
16 everybody jumped in their cars and I told them exactly what I
17 was going to do. I told Johnny Sparacino, "I'm going to pull
18 up to the front of his car and just kick your door open and,
19 you know, empty that gun in there, into the car."

20 Q Did you see how Scopo was arriving?

21 A Yes, he -- he -- what do you mean how he was arriving?
22 He was arriving in a car.

23 Q What kind of car, if you recall?

24 A It was a light color, small, I think it was an Altima,
25 Nissan. I think it was a Nissan.

1 Q What were you wearing on your head that night?

2 A I was wearing a hat.

3 Q What kind of hat?

4 A Pink cap.

5 Q Was Sparacino wearing anything unusual?

6 A He was wearing a ski mask, yeah.

7 Q So, after you told Sparacino what to do, what happened
8 next?

9 A We drove -- we waited for him to see if he was going to
10 park and we caught his reverse lights going on and, you know,
11 he was parking, backing up to park.

12 Q Who was parking?

13 A I wasn't -- Joey was on the passenger side of the front
14 seat and I don't know who the kid was in the front seat
15 driving, but he was parking and I told him, "I'm going to pull
16 up. As soon as he backs in, I'm going to put the back end of
17 your door against his bumper, front bumper, so you can swing
18 your door open and just do what you have to do."

19 Q Did you do those things?

20 A Yes, I did.

21 Q And what did Sparacino do?

22 A He did exactly what he was supposed to do.

23 Q What did he do?

24 A He emptied the machine gun into Joey's car.

25 Q Was his door closed?

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1 A No, it was wide open. He opened the door, stood in the
2 back of the car and just emptied the gun into the window.

3 Q Which gun was that?

4 A The MAC-10.

5 Q What, if anything, did Pappa do?

6 A While he was shooting, while Johnny Sparacino was
7 shooting in the car, a bullet came through the back window of
8 the car I was driving and blew out my driver's window, and at
9 the same time I went down, Johnny Pappa jumped out of the car
10 and he left the door open so I could see what he was doing.
11 He ran to -- into the bushes over there and he was, like,
12 lurking around see what was going on.

13 Q What did he have with him?

14 A He had a pistol on him. I don't remember exact kind of
15 pistol, but I know it was an automatic.

16 Q What did he do with it?

17 A Well, at the same time, Johnny Sparacino, after the
18 bullet blew out the window, he was screaming, "Go, go, go,
19 go." So I started taking off and I could see Johnny starting
20 to shoot.

21 Q Johnny who?

22 A Johnny Pappa.

23 Q So you took off with who in your car?

24 A Just me and John Sparacino.

25 Q And Pappa was left on the street?

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1 A He was left on the scene, yeah.

2 Q And what was he doing?

3 A He was shooting.

4 Q How many rounds were in that MAC-10 that Sparacino had?

5 A 30 rounds.

6 Q How do you know?

7 A 'Cause I put them in there.

8 Q And how did you obtain that MAC-10?

9 A I obtained it from Frankie, BF.

10 Q Is that the gun you testified about earlier in the bag?

11 A Yes.

12 Q What, if anything, happened to your hat when you were
13 receiving return fire?

14 A It flew off when I went down.

15 Q Where did you drive to?

16 A We had a prearranged spot where we were going to park and
17 drop the car.

18 Q Do you remember where it was?

19 A It was only a couple blocks away.

20 Q Did you go there?

21 A Yes, I did.

22 Q What did you do when you got there?

23 A I told John leave the gun in the car and we got out and I
24 took, I don't know why, but I took his hat off his head and
25 put my gloves in there and just stuck it in a bush on the

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1 corner.

2 Q You mentioned "John" just now.

3 Which John was it?

4 A Johnny Sparacino.

5 Q Why did you tell him to leave the gun in the car?

6 A Because we were told to leave the gun in the car.

7 Q By who?

8 A Michael told us, "Make sure you leave the gun in the
9 car."

10 Q Which gun was this?

11 A The MAC-10.

12 Q Did you and Sparacino then step out of the car?

13 A Yes, we did.

14 Q What happened next?

15 A Well, as we got out of the car, we were walking towards
16 the corner and BF and Johnny Pappa pulled up.

17 Q Were they in the same car?

18 A They were in Frankie's car, yes.

19 Q Frank Guerra's car?

20 A Yes.

21 Q And what did you do next?

22 A We got in the backseat and left.

23 Q What happened to Joe Scopo that night?

24 A He passed away.

25 Q After the Scopo murder, who, if anyone, from outside the

1 murder crew talked to you about it?

2 A A couple days after that, I was sitting in front of my
3 house and this kid Michael DeRosa pulled up.

4 Q Who was Michael DeRosa?

5 A Michael DeRosa was an associate of the Lucchese family.

6 Q And what, if anything, did he say to you?

7 A And he just came out with a big smile on his face and
8 said that, "That was some job. That was some hit." And I
9 just looked at him and said, "I don't know what you're talking
10 about."

11 Q Other than Michael DeRosa, did anyone else outside the
12 murder crew bring this up to you?

13 A Yes, Dino.

14 Q Who was Dino?

15 A Dino Calabro.

16 Q Who was he in organized crime?

17 A At the time, he was just an associate.

18 Q Of what family?

19 A Colombo crime family.

20 Q What did he say to you?

21 A It was basically the same thing, "That was some job you
22 did, some hit."

23 Q What did you say to him?

24 A "That was a nice piece of work."

25 I told him, "I don't know what you're talking

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1 about."

2 Q Why did you make that denial to DeRosa and Calabro?

3 A Because you shouldn't be talking about things like that.

4 Q Why not?

5 A Because you could get killed for doing that.

6 Q Killed for what?

7 A For talking about killing somebody.

8 Q Did DeRosa or Calabro tell you how they knew about it?

9 A Yes.

10 MR. SERCARZ: Objection, Your Honor. I would note
11 that we're past the point of the conspiracy and engaging in
12 this homicide.

13 THE COURT: I'll sustain.

14 Q After DeRosa and Calabro approached you about the Scopo
15 murder, did you tell anyone?

16 A After DeRosa and, excuse me, say it again.

17 Q After DeRosa and Calabro approached you about the Scopo
18 murder, did you report that fact to anyone?

19 A Yeah, we brought it to Michael's attention.

20 Q Who's "we"?

21 A Me and BF.

22 Q And who's "Michael"?

23 A Persico.

24 Q What did you say to him?

25 A We told him, "Eric's got a big mouth. He's telling

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1 everybody what we did."

2 Q Eric who?

3 A Excuse me?

4 Q Eric who?

5 A Curcio.

6 Q And what, if anything, did Michael Persico say back?

7 A He says, "He's your friend. Go talk to him."

8 Q Did you do that?

9 A Yes, we did.

10 Q What happened when you talked to Eric Curcio?

11 A He denied it all.

12 Q What else, if anything, did Eric Curcio say to you about
13 the Scopo murder?

14 A He said a lot of things, Eric. He said we were all going
15 to get straightened out, everybody's going to become captains
16 of the family.

17 Q Did you report that to anyone, what Eric Curcio said to
18 you?

19 A Yes, I -- yes, I did. Yeah, I did. I told Michael about
20 it. I told him, "He's running his mouth saying that he's
21 going up to see your brother and your brother's talking to
22 him." And I asked him, "Does he talk to him? Does he go up
23 and see Allie?" And Michael says, "I doubt it."

24 Q Who's the "Michael" you're talking about?

25 A Michael Persico.

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1 Q When you told Michael "he's running his mouth," who's the
2 "he" there?

3 A Excuse me?

4 Q Who was running his mouth?

5 A Eric Curcio.

6 Q And when you mentioned someone's brother, who were you
7 referring to?

8 A "Allie Boy" Persico.

9 Q Why did you report this to -- why did you report all this
10 to Michael Persico?

11 A Because I wanted to know if his brother knew anything
12 about this.

13 Q About what?

14 A About Eric saying all these things.

15 Q What, if anything, did Michael Persico say to you about
16 that?

17 A Michael said, "My brother knows nothing about it. He met
18 him once on a visit, said hello to him, that's it."

19 Q Who met who once on a visit?

20 A Allie met Eric on a visit at FCC one time and that was
21 it.

22 Q After that, did you talk to Eric Curcio again about his
23 prison visits?

24 A Yeah, he had a problem with, I think, Chucky Russo and he
25 told me he's not going up there no more.

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1 THE COURT: I'm sorry, who had the problem?

2 THE WITNESS: Eric Curcio had an argument on a visit
3 with Chucky Russo and he said he wasn't going to go visit him
4 no more, he's had it, you know.

5 Q Eric said he wouldn't visit Chucky Russo anymore?

6 A Yeah, he's not going to visit him no more.

7 Q After the Scopo murder, did you ever discuss John
8 Sparacino with Eric Curcio?

9 A Yeah, I believe I did, yes.

10 Q What, if anything, did Curcio say about Sparacino?

11 A He said he was running his mouth.

12 Q Who was running his mouth?

13 A Johnny Sparacino.

14 Q And after that, did you ever discuss Sparacino with John
15 Pappa?

16 A Well, Eric Curcio and Johnny Pappa are the ones that told
17 me and BF that Johnny Sparacino was running his mouth about
18 the Joe Scopo murder.

19 Q Do you recall a time when John Pappa came to you about
20 Sparacino?

21 A Yeah, it was -- I can't remember the time frame, but he
22 came to my house one day and asked me to help him steal a car
23 and I told him I don't steal cars.

24 Q What happened next?

25 A So he's telling me, "I need your help." And I was like,

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1 "Why do you need a car?" And he told me straight up and down
2 that he just killed Johnny Sparacino.

3 Q Pappa told you he killed Sparacino?

4 A Yeah.

5 Q Is that right?

6 A Him and Calvin, yeah. He needed a car so he could put
7 the body in there and get rid of it.

8 Q Who was that Calvin that you mentioned?

9 A Calvin, it was a friend of Johnny Pappa.

10 Q What did you do when Pappa reported this to you?

11 A I said let me help him 'cause, you know, he just helped
12 us do something, so I figured return the favor.

13 Q What did you do to help him?

14 A We -- we went to Frankie's house, BF, and I told him we
15 need to get a car and I explained to him what happened, and
16 then we went and got John Matera and we went and got a car.

17 Q Who was John Matera?

18 A John Matera was a friend of Frankie's, BF.

19 Q How did the three of you get a car?

20 A We stole it.

21 Q And where did you take it after that?

22 A We drove it to Staten Island.

23 Q To where in Staten Island?

24 A We drove it to Calvin's house.

25 Q What happened when you got to Calvin's house?

1 A We went inside and Calvin started telling us what
2 happened and we went to the basement and John Sparacino was
3 laying on the floor in the basement dead.

4 Q When you were in the basement, what, if anything, did
5 Pappa say to you?

6 A He said a bunch of things, you know. He said, "Look at
7 him now, big mouth." Then he told me about, "You remember
8 when he called you a BJ."

9 Q Pappa said that to you?

10 A Yeah.

11 Q What did you say?

12 A I said, "Yeah, I remember when you told me that he said
13 that."

14 Q That who had said that?

15 A That Johnny Sparacino had called me a blow job.

16 Q What happened next?

17 A I don't know what happened, but all I remember is a knife
18 coming out and we -- we cut his penis off and stuck it in his
19 mouth.

20 Q Who did that?

21 A John.

22 Q John Pappa?

23 A Yeah, me and John.

24 Q You and John Pappa did that?

25 A Yes.

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1 Q What happened with Sparacino's body after that?

2 A We wrapped him up and threw him in the back of the car,
3 and Johnny Pappa and Calvin and me and BF went our way, they
4 went their way with the stolen car with the body in it.

5 Q Let me just unpack that a little bit.

6 Who wrapped the body up?

7 A We wrapped Johnny Sparacino up.

8 Q Who did that?

9 A All of us.

10 Q And what did you wrap him up in?

11 A I believe it was a rug.

12 Q And then whose car was the body placed in?

13 A The stolen car.

14 Q Who got in that car?

15 A Johnny Pappa and Calvin.

16 Q And where did you go?

17 A I went home.

18 Q In a separate car?

19 A In my car, yes.

20 Q With who?

21 A With BF and John Matera.

22 Q After Sparacino was murdered, did you ever discuss him
23 with anyone else?

24 A I don't remember.

25 Oh, yeah, yeah, yeah, Eric, yeah.

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1 Q Eric Curcio?

2 A Yeah.

3 Q What did Curcio say to you?

4 A Eric wasn't there at the time, but he came -- he was in
5 Florida at the time. He came back from Florida and he asked
6 to see me and BF. It was a couple days after it, a day or two
7 after the murder of Sparacino, and we met him and it was late
8 at night and we just thought he wanted to talk to us about
9 something, and out of nowhere, he just said, "I took care of
10 that for us." And we asked him, "What did you take care of?"
11 He said, "I killed Johnny Sparacino the other day."

12 Q Who said that?

13 A Eric Curcio.

14 Q And did you know if that was true or false?

15 A It was definitely a lie. He wasn't there.

16 Q What happened to Eric Curcio?

17 A He got killed.

18 Q Were you present for any part of his murder?

19 A No.

20 Q Did you question anyone about it?

21 A Yes.

22 Q Who?

23 A Johnny Pappa.

24 Q What did you ask him?

25 A I asked him, "What happened? And did you have anything

1 to do with this?"

2 Q How did he respond?

3 A He responded by laughing hysterically and didn't say a
4 word, just laughed.

5 Q What did you believe that meant?

6 A Just my personal opinion, I believe he killed him.

7 Q At some point after the Scopo murder, did Alphonse
8 Persico, who I think you called "Allie Boy," return home from
9 jail?

10 A Yes.

11 Q In what year, approximately?

12 A '94.

13 Q Did you or anyone close to you visit him after his
14 release?

15 A Yeah, BF went to visit him.

16 Q Did BF report to you about the visit?

17 A Yes, he did.

18 Q What did BF report to you?

19 A BF told me he was upstate with Allie and that, "When he
20 gets hit -- when he gets back to Brooklyn, he wants to meet
21 you and that me and you are going to report to him."

22 Q So, when you said BF mentioned being upstate with Allie,
23 what did you understand "upstate" to mean?

24 A The house upstate that he owns.

25 Q That who owns?

Russo - Direct / Lifshitz

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1 A "Allie Boy."

2 Q And Allie said what to BF, according to BF?

3 A That when he gets back to New York -- when he gets into
4 Brooklyn, he wants to meet me and that from here on in that me
5 and BF report to him.

6 Q After that, did you meet "Allie Boy" Persico?

7 A Yes, I did.

8 Q Where?

9 A I believe it was in Romantique.

10 Q In Brooklyn?

11 A Yeah.

12 Q What, if anything, did "Allie Boy" Persico --

13 MR. LIFSHITZ: Strike that.

14 Q Who were you with when you met "Allie Boy" Persico at
15 Romantique?

16 A BF.

17 Q What, if anything, did "Allie Boy" Persico say to you and
18 BF?

19 A He told us that -- he told us a few things. I don't
20 remember everything. I remember him telling us that once he
21 puts things back together in the family, that me and BF would,
22 you know, get what we had coming to us and things like that,
23 that we -- that he wanted me and BF around him.

24 Q Was the Colombo family war still going on at this point?

25 A No.

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1 Q When "Allie Boy" Persico mentioned putting the family
2 together, what did you understand that to mean?

3 A Meant putting it back together because there was a lot of
4 people that they wanted to come back in and, you know, they
5 were afraid to come back in. So he was working on putting it
6 back together.

7 Q The Colombo family?

8 A Right.

9 Q And I believe you said he mentioned you and BF would get
10 what was coming to you, is that the phrase you used?

11 A Yes.

12 Q What did you understand that to mean?

13 A Be made members of the family.

14 Q So, what was the result of "Allie Boy" Persico saying he
15 wanted you and BF around him?

16 A Excuse me?

17 Q What was the result of him telling you that you and BF
18 would be around him?

19 A The result was we were.

20 Q To be clear, up to that point, who were you and BF
21 reporting to?

22 A We were hanging out with Michael.

23 Q After "Allie Boy" told you, in your understanding, that
24 he wanted you two to get inducted, when, if ever, did you
25 discuss that subject again with him, with "Allie Boy"?

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1 A Like a year or two later.

2 Q And after that, when, if ever, did you discuss it again?

3 A With Allie?

4 Q Yes, with Allie.

5 A I only discussed it with Allie that one time when me and

6 BF were in his office.

7 Q His office where?

8 A On Romantique.

9 Q Around what year was that?

10 A '96, '97.

11 Q Were you still on parole from your assault case?

12 A Yes.

13 Q Were you allowed to meet with "Allie Boy" Persico?

14 A I wasn't supposed to, no.

15 Q Did you ever learn whether law enforcement knew you had

16 met with him?

17 A Yes.

18 Q How did you learn that?

19 A It was in my house when Michael's cousin came to my

20 house.

21 Q Who?

22 A Michael Persico's cousin Frankie came to my house and

23 told me that, "We have a little problem, that you're on tape,"

24 meaning with Allie and Michael.

25 Q Did he say --

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1 A "And it might be a problem with your parole."

2 Q Did he say at what location the tape showed you meeting
3 with him?

4 A I don't remember if he told me the location where we met.

5 Q Did you ever see that tape?

6 A Yes, I did.

7 Q How were you able to see that tape?

8 A I know my parole officer might have showed it to me,
9 definitely showed it to me when I reported in one day.

10 Q Did it depict you with Michael Persico and Allie Persico?

11 A Yes, it did.

12 Q In the mid-'90s after the Scopo murder, how did you make
13 money?

14 A I was shaking down drug dealers, selling drugs, I was
15 loansharking.

16 Q Can you define "loansharking" for us, please?

17 A You lend people money for a percentage back.

18 Q Is there a term for the percentage?

19 A It's called the juice, the vig.

20 Q How often is that juice, vig percentage paid?

21 A Every week.

22 Q Does paying the interest reduce the principal of the
23 loan?

24 A No, not at all.

25 Q Can just anyone engage in loansharking?

1 A Not really, no.

2 Q Who can do that?

3 A I mean, you -- most of the people I ever met that were
4 doing shylocking were always around one of the five families.

5 Q Did you have a partner in your loansharking business?

6 A Yes, I did.

7 Q Who was that?

8 A BF.

9 Q And in the mid-'90s, how did you and BF get money to
10 extend loan shark loans?

11 A From Michael.

12 Q Michael Persico?

13 A Yes.

14 Q On what terms?

15 A We used to borrow money from him for a point.

16 Q You just used the word "point."

17 What is a point?

18 A Like one percent.

19 Q So "point" is another term for the percentage?

20 A Yeah.

21 Q And how often did you have to pay the point?

22 A Well, in the beginning, we used to give it every week and
23 then Michael said, "Just see me like once a month with the
24 juice."

25 Q What interest or points did you charge the people you

1 made loansharking loans to?

2 A Most of the time it was three points. Some people we got
3 it for two-and-a-half.

4 Q What advice, if any, did Michael Persico give you about
5 loansharking?

6 A He said that it's not a business you stay in forever.
7 Just try to make as much money as you can from it, save your
8 money, and try to do something else with it.

9 Q Over what period, approximately, did you and Frank Guerra
10 borrow money from Michael Persico to make loansharking loans?

11 A When I got home in -- around -- after '93, around '93 to
12 '96, '7 we were asking for money for a few years.

13 Q About how much money in total did you and Guerra borrow
14 from Michael Persico for that purpose?

15 A Hundred and fifty, 200. I'm not sure exact number.

16 THE COURT: You mean thousand?

17 THE WITNESS: Thousands, yes.

18 Q 150,000 or 200,000?

19 A Yeah, around there. I'm not exactly sure. It's a long
20 time ago.

21 Q So, if the number was 150,000, how much were you
22 obligated to pay Michael Persico?

23 A The one point.

24 Q What would that be?

25 A 1500.

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1 Q How often?

2 A Like I said, in the beginning, we would give him every
3 week and then he just said, "Listen, just see me once a
4 month." So, it was around once a month.

5 Q Where did you typically meet him to pay him?

6 A Wherever he was. We'd call him, see where he was doing,
7 hang out, go to eat dinner, see him at Romantique.

8 Q Did you and BF ever have trouble paying Michael Persico?

9 A Not in the beginning, no.

10 Q Did that change?

11 A Later on, maybe like a year-and-a-half, two years later,
12 maybe earlier. I don't remember.

13 Q Why did you and Guerra have trouble paying?

14 A 'Cause guys that borrow money, they're a liability and a
15 lot of them just disappear on you. You got to hunt them down,
16 look for them to find your money.

17 Q You were having trouble doing that?

18 A We had trouble with a couple guys, yeah.

19 Q What, if anything, did you say to Michael Persico?

20 A We told him that we were having problems. When he asked
21 us how come the money's not ready, we would tell him we were
22 having problems with people.

23 Q What, if anything, did he say back?

24 A In the beginning, he was -- he was good about it and
25 after a while, he just said, "Listen, yous got to bring my

1 money back."

2 Q What did you understand that to mean?

3 A "Get my money."

4 Q After that, did you and BF collect your loansharking
5 money?

6 A We started going after some of the money people owed us,
7 yes.

8 Q Did you assault some of those people?

9 A Yes.

10 Q Was there a customer called Lenny?

11 A "Fat Lenny," yes.

12 Q What did you do to him?

13 A I gave him a beating on 13th Avenue.

14 Q How much money did he owe you?

15 A Around \$30,000.

16 Q What happened after you beat him?

17 A I was told by Michael that don't worry about Lenny,
18 everything's taken care of, that Tony Anastasio was going to
19 take care of it.

20 Q Tony Anastasio?

21 A "Tony Anastasio worked out something. I'll get my money.
22 Don't worry about it."

23 Q Michael Persico said that to you?

24 A Yes.

25 Q Who was Tony Anastasio?

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1 A I didn't know who he was at the time. Then I found out
2 he was a made member of the Gambino crime family.

3 Q Did you have a loansharking customer called Tony?

4 A Yeah, Tony, yes.

5 Q About how much did he owe you and BF?

6 A Seven or \$8,000.

7 Q Seven or eight?

8 A Yeah.

9 Q What did you do to him?

10 A I gave him a beating.

11 Q What happened next?

12 A He ran to somebody to try to squash it.

13 Q Do you remember who he ran to?

14 A Yeah, the first person he ran to was a guy named Joe C.
15 He was a made member of the Genovese family.

16 Q What happened next?

17 A And me and BF went to meet him and -- at a diner on Kings
18 Highway.

19 Q You met Joe C?

20 A Joe C., yes.

21 Q And what happened?

22 A And he was telling us that, "The guy's a bum. He's got
23 no money. I could get you two, three thousand dollars and,
24 you know, settle for that." And I was like, "I can't make
25 those decisions. It's not my money to make that decision."

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1 Q Whose money was it?

2 A Michael's.

3 Q Did you report this conversation to anyone?

4 A Yes. At the time, Allie was home and we told Allie about
5 it.

6 Q Alphonse Persico?

7 A Yeah.

8 Q What did you say to him?

9 A We told him that this guy's playing games, this guy Joe
10 C., and he's talking about giving us two, three thousand
11 dollars to settle the deal, to squash the beef. And Allie
12 told us, "Tell him to wait there. If he's still at the diner,
13 tell him to wait there." And we went there, me, Allie and BF,
14 and Allie just didn't like the guy, so he told him --

15 Q Who was Allie talking to at this point?

16 A Joe C.

17 Q Go ahead.

18 A And he told him straight up and down, "What's the
19 problem?" Joe C. explained to him the same thing he explained
20 to us about the two, three thousand dollars. He told Allie,
21 "The guy's a bum. He's worthless." And Allie told him --
22 looked at me and said, "Ant, just keep beating him up until he
23 gives you the money," and walked out.

24 Q And what happened next with this?

25 A Somebody else came along, "Big Louie." He was friends

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1 with "Big Louie's" brother.

2 Q Who was "Big Louie"?

3 A "Big Louie" was a captain in the Gambino family.

4 Q So who did "Big Louie" talk to?

5 A "Big Louie" came -- I was in Romantique's on 11th Avenue
6 one day and I was standing there and I forgot what happened,
7 but Big Louie and Huck were --

8 Q Who's Huck?

9 A He was a made member of the Gambino family.

10 Q Go on.

11 A They came back and I seen them. Said hello to them, they
12 went into Romantique. I don't know how long it was. They
13 came back out a little while later and Allie came out and he
14 told me, "Don't worry about that money. It's a done deal.
15 I'll make sure when I get the money I give it to my brother."

16 Q Was there a customer called Santos?

17 A Yes.

18 Q How much money did he owe you?

19 A I don't remember exactly, three, four thousand, maybe
20 more. I don't know.

21 Q What did you do to him?

22 A Well, he was playing a lot of games, and I went to his
23 house one day and I just happened to be leaning on the steps
24 of his house and it was a brick fence there and at the same
25 time I leaned on the brick, he opened the door and the brick

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1 was loose, so I had a brick in my hand and I hit him with it.

2 Q Around this time in the mid-1990s, did you ever talk to
3 Michael Persico about whether anyone else in the Colombo
4 family owed him money?

5 A We discussed it a couple of times, yeah. Some couple
6 other people.

7 Q What, if anything, did Michael Persico say?

8 A He asked me to reach out to Bobby Tarantola one time.

9 Q About what?

10 A About money that was owed to him, that he stopped paying,
11 and he just told me, "Listen, tell him forget about the juice.
12 Just tell him to get my money to me."

13 Q Who was Bobby Tarantola at that time?

14 A He was an associate of the Colombo family.

15 Q Who else, if anyone, did Michael Persico talk to you
16 about?

17 A I believe Anthony Ferrara owed him money, at times owed
18 Michael money.

19 Q Who told you that?

20 A Anthony told me he borrowed money to buy a car one time.

21 Q From?

22 A From Michael.

23 Q Did you know why Bobby Tarantola borrowed the money?

24 A I don't know why he borrowed the money, no.

25 Q Did anyone tell you the terms of those loans from

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1 Michael?

2 A Well, Michael told me to go talk to him about it, "See
3 what he's doing with my money. Tell him not to -- to forget
4 the juice." So evidently he was paying juice on it.

5 Q And that would refer to Bobby Tarantola?

6 A Right.

7 Q Shifting topics now.

8 Have you ever been involved in a scheme to sell
9 stolen video games?

10 A Yes.

11 Q In what year?

12 A In the '90s, mid-'90s.

13 Q How did you first become involved in that?

14 A I was in my car service on Bay Parkway one day. I
15 believe my father brought it up to me about a guy had a
16 truckload of video games.

17 Q Were they stolen?

18 A Stolen video games, yes.

19 Q What did you do when you learned that?

20 A I wanted to buy the load. I was trying to scrape the
21 money together.

22 Q Did you meet the person who had the games?

23 A Yes.

24 Q Who was he?

25 A Some guy named Spider.

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1 Q What did you say to each other?

2 A He told me what he wanted and I told him I'll try to, you
3 know, get the money 'cause I'd like to buy the load 'cause it
4 was nice load to hold on to, especially it was a couple months
5 before Christmas.

6 Q What did Spider tell you he wanted?

7 A He wanted 75,000 for the whole load, tractor trailer
8 load.

9 Q Did you see the video games yourself?

10 A Not until I reached out for the money.

11 Q Okay. So walk us through that.

12 After Spider told you how much he wanted, what did
13 you do next?

14 A I reached out and I believe I brought it up to Michael.
15 Michael told me he'll look into it, and then he came back to
16 me and told me he has a friend on 18th Avenue and I forgot the
17 street, it was a little storefront there.

18 Q What did he tell you about this friend?

19 A His friend would give us the money and he'll buy the
20 whole load from us.

21 Q Did you go see the friend on 18th Avenue?

22 A Yes, and we got 75,000 from him.

23 Q Who's "we"?

24 A Me, BF.

25 Q What did you do next after you got that money from the

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1 man on 18th Avenue?

2 A Well, I had the money and I -- he needed a truck to bring
3 the load to us. So I made my father rent a truck, a Ryder
4 Truck, and gave it to him to use to bring -- he was going to
5 bring it in two loads, first load half and then the other load
6 half the second time around, and I was going to give him
7 35,000 every time he brought a load.

8 Q So two payments of 35,000?

9 A Yeah.

10 Q Did you have a plan about where to put these video games?

11 A Yeah, we were going to put them in -- in the garage of
12 the bus company in Coney Island.

13 Q What bus company?

14 A Michael's bus company.

15 Q How did you come to plan to put them there?

16 A We asked Michael where we could do it. He said no one's
17 using it over there, use the garage.

18 Q So, I think you mentioned BF going with you.

19 Who else, if anyone, became involved in this plan?

20 A It was me, BF, Little Anthony and Scotty.

21 Q Who was Little Anthony?

22 A Anthony Ferrara.

23 Q And who was Scotty?

24 A Scotty Reback.

25 Q And who are they in organized crime?

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1 A Associates of the family, of the Colombo family.

2 Q Did Spider then bring you any video games?

3 A Yes, he did.

4 Q In what vehicle?

5 A In the rented truck that my father rented.

6 Q What happened next?

7 A He showed me the load, and we were going back to the car
8 service when I spotted what looked like agents.

9 Q What were they doing when you spotted them?

10 A They were taking pictures with a six-foot lens.

11 Q What did you do next?

12 A I -- I took him into the car -- car service and I -- I
13 made him strip down.

14 Q Who did you make do that?

15 A Spider. I thought he set me up.

16 Q So why did you make him strip down?

17 A So I could see if he had a wire in him.

18 Q Did you see anything like that?

19 A No.

20 Q What did you do next?

21 A I told him, "You got an hour to get rid of that truck and
22 that load and then I'm reporting it stolen."

23 Q Did you ever actually acquire these video games from
24 Spider?

25 A No, never.

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1 Q You may have said this, but how much money by this point
2 had you gotten from the man on 18th Avenue?

3 A I forget, it was either 70 or 75,000.

4 Q What did you do with that money after you ordered this
5 plan?

6 A I had it for a couple of days.

7 Q What happened next?

8 A Michael came down my block. I was hanging out in front
9 of my house and Michael happened to be coming down and he just
10 smiled at me. He said, "Are you ever going to give that money
11 back to my friend?"

12 Q Michael who?

13 A Persico.

14 Q What did you say?

15 A I said, "Yes."

16 Q What did you do?

17 A I gave it back.

18 Q In the mid and late 1990s, did you have any legitimate
19 businesses?

20 A In the late '90s?

21 Q Yeah.

22 A Yeah, I opened up a liquor store.

23 Q Where was the liquor store?

24 A In Staten Island.

25 Q Where did you get money to open a liquor store?

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1 A From my friends.

2 Q Who were your friends?

3 A Frankie Persico, Michael Persico, Anthony Stropoli.

4 Q Who was Anthony Stropoli?

5 A He's a made member of the Colombo family.

6 Q And Frank Persico, I believe you testified earlier, is a
7 cousin of Michael Persico; is that right?

8 A Yes.

9 Q Was the liquor store successful?

10 A It was in the beginning.

11 Q And then?

12 A I screwed up.

13 Q What do you mean?

14 A I bought liquor that I shouldn't have bought. When
15 you -- you know, at a time when you don't -- after the
16 holidays, you shouldn't be buying all the liquor I bought.

17 Q Did the store suffer as a result?

18 A It suffered a little bit, yeah.

19 Q Who, if anyone, did you discuss that with?

20 A Well, I was holding on to the store until I got arrested,
21 and then when I got arrested, my ex-girlfriend didn't want to
22 be bothered with the store no more. So I didn't know what to
23 do, so I discussed it with Michael.

24 Q You mentioned this happening when you were arrested.

25 Which arrest was this?

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1 A I was arrested in '99, the end of '99, beginning of 2000.

2 Q Federal case or state case?

3 A Federal case, yeah. I was indicted on a RICO charge.

4 Q Just to back up one step.

5 After you were arrested, what did you decide to do
6 with the store?

7 A Well, after my girlfriend came to me and told me she
8 didn't want to be bothered with the store no more, I discussed
9 it with Michael.

10 Q What did you say to him?

11 A I told him --

12 MR. SERCARZ: Objection, Your Honor. Your Honor,
13 we've been told what subject matter would be covered at the
14 hearing, and I would respectfully submit this is outside the
15 scope.

16 MR. LIFSHITZ: We're covering a 20-year racketeering
17 conspiracy that's been disclosed for a long time, and his
18 association with Michael Persico over the years is highly
19 probative.

20 MR. SERCARZ: The presentence report contained
21 allegations regarding certain conduct that the Government
22 claimed they were going to prove at a Fatico hearing, and this
23 goes far, far afield, I respectfully submit.

24 THE COURT: I would agree.

25 I just want to remind the parties based on one of

1 the latest submissions, August 4th, 2016, page 2 of that
2 letter indicated what was going to be proved.

3 Well, one portion of it, the first part says:
4 "First, the defendant has participated in racketeering as a
5 long-time associate of the Colombo family and has at times
6 been involved in managing the crime family's members and
7 associates." And the acts in the indictment go up to 2010.

8 So overruled.

9 MR. LIFSHITZ: Thank you, Your Honor.

10 BY MR. LIFSHITZ:

11 Q I may be backing up a question or two, Mr. Russo, but you
12 said you went to Michael Persico after you were arrested.

13 What do you recall saying to him about the liquor
14 store?

15 A I remember bringing it to his attention that I was having
16 problems with the store.

17 Q What did he say?

18 A And he gave me some choices that would help me out.

19 Q What were those choices?

20 A You know, "Work it and try to fix it on your own or maybe
21 you could give it to me and we'll take it over 'cause you're
22 going to go to jail anyway, so, and we'll run it. You know,
23 we'll take care of it."

24 Q What did you decide to do?

25 A I decided to turn it over to Michael.

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1 Q And what did he tell you he would do with it?

2 A He told me that him and Carl would take care of it, Carl
3 Panarello.

4 Q Who was Carl Panarello?

5 A He was an associate of the Colombo family.

6 Q And what happened to the business?

7 A I gave it to them. Carl came in, he started working the
8 store. They asked me if my father-in-law -- well, my
9 girlfriend's father, 'cause it was under his name, the
10 license, if he can leave it under his name for a year or so
11 and when everything's worked out and everything's back to
12 normal, the store's making money again, they would work it out
13 where they, you know, buy it from my father-in-law, take over
14 the store.

15 Q What happened to the store next?

16 A What happened to the store, they sold it.

17 Q Did you profit from that?

18 A Did they profit from it?

19 Q Did you profit from that?

20 A No, not at all.

21 Q Did you lose any money?

22 A Not really, no.

23 Q In the late 1990s, did you talk to anyone in the crime
24 family about who would get inducted into the crime family?

25 THE COURT: I'm sorry, what was that time frame?

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1 MR. LIFSHITZ: The late 1990s.

2 Q Let me ask it a different way.

3 In the late 1990s, who, if anyone, told you that he
4 was getting inducted into the crime family?

5 A Anthony Stropoli.

6 Q And who was Stropoli at that time?

7 A Who was Anthony Stropoli? He was an associate in the
8 Colombo family.

9 Q What, if anything, did he tell you about himself maybe
10 getting inducted?

11 A He told me that he was getting inducted and straightened
12 out and became a -- you know, in the Colombo family.

13 Q Did he mention any other names?

14 A He mentioned a couple names, yes.

15 Q Who?

16 A He mentioned Dino. He said some guy from Boston, he
17 didn't know who he was. He said Andre.

18 Q Who was Dino?

19 A Dino Calabro.

20 Q And who was Andre?

21 A Andre, I forgot his last name. He's a -- he was an
22 associate. He's close to "Allie Boy."

23 Q Just so the record is clear, what did Stropoli tell you
24 about these people, Andre, Dino and someone from Boston?

25 A He told me they were all getting straightened out.

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1 Q Were those men then in fact inducted into the Colombo
2 family?

3 A Yes.

4 Q When Stropoli told you he and those other men would get
5 inducted, what was your reaction?

6 A I was upset.

7 Q Why?

8 A Because I thought I deserved it before a couple of them.

9 Q I'm sorry?

10 A I thought I deserved it before a couple of them.

11 Q Why did you believe that?

12 A Because basically I ended the war, me and my guys.

13 Q How did you end the war?

14 A By killing Joey Scopo.

15 Q Did you express to anyone the fact that you were upset
16 about this?

17 A Yes.

18 Q Who?

19 A My partner, BF.

20 Q Who, if anyone, next approached you to discuss the fact
21 that you were upset?

22 A You know, all I know is that I expressed disappointment
23 to BF, and next day I was in my liquor store and Frankie
24 Persico and Anthony Stropoli walked in and they were a little
25 upset with me and they were telling me, "Why did you do that?"

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1 How could you do that? You know it could get me in trouble."
2 And I was like, "What are you talking about?" And they were
3 telling me that, "One of your dear friends went up to Michael
4 and told him you expressed disappointment in not being
5 straightened out on that list." I said, "I don't think BF
6 would do something like that." And they basically told me
7 straight up and down, "No, it was BF." And then I went back
8 to BF and I asked him and he said, yes, he did, "But I was
9 just -- I was concerned about you."

10 Q Who said "I was concerned about you"?

11 A BF.

12 Q And what did you say --

13 A 'Cause he didn't want me to get in trouble and
14 expressing, you know, saying things that could get you in
15 trouble, 'cause I was a little upset at the time.

16 Q What did you say back to BF?

17 A I told him, "What's wrong with you? You get me killed
18 doing something like that."

19 Q Why did you believe that could get you killed?

20 A 'Cause it could get you killed.

21 Q What could get you killed?

22 A Talking the way I was talking.

23 Q Talking about what?

24 A About being straightened out; I deserve it; you know, I
25 ended the war.

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1 Q Are you familiar with a man named Arthur Alonzo?

2 A Sure, I am, yes.

3 Q Who was he?

4 A He was a -- a kid that hung around me and BF.

5 Q Did you ever become involved in a dispute he was part of?

6 A Yes.

7 Q Approximately when?

8 A Early '90s, mid-'90s.

9 Q How did you come to be involved in the dispute?

10 A He -- he worked in the stock market. He was a -- he was
11 a stockbroker and he was friendly with me and BF and he did
12 things for us, and he was leaving one firm going to another
13 and basically he just lied to us and me and Frankie didn't
14 know any better and when he told us about the leads that he
15 had --

16 MR. SERCARZ: Your Honor, forgive me for
17 interrupting the witness. May we have a date before this
18 continues so we can see whether it's within the parameters of
19 the hearing?

20 THE COURT: Yes.

21 What time frame are we talking about?

22 MR. LIFSHITZ: I would ask the witness what time
23 frame he recalls.

24 MR. LIFSHITZ: But also this is Giglio.

25 THE COURT: What time frame are you talking about

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1 here?

2 THE WITNESS: Mid-'90s.

3 Q This Arthur Alonzo dispute was in the mid-'90s?

4 MR. SERCARZ: May I approach the Government for a
5 moment just to make sure that we're not going into an area
6 that's going to be a problem?

7 THE COURT: Why don't we take maybe a five minute
8 break and we'll resume in about five minutes.

9 The witness can leave.

10 (Witness leaves the witness stand.)

11 THE COURT: By the way, counsel, while you're at it,
12 I had originally planned to continue this hearing in the
13 afternoon. Unfortunately, I have some other matters that came
14 up that I have to address. So if you want to discuss a date
15 amongst yourselves, or several dates, because it looks like
16 we're going to need to continue the hearing.

17 MS. KEDIA: Judge, what time are we going to go
18 until today?

19 THE COURT: About one o'clock.

20 MR. SERCARZ: Your Honor, do I take it that tomorrow
21 is not going to work to continue this?

22 THE COURT: No. This week is definitely out. If
23 you want me -- I actually have the morning of August 16th
24 open, which is next Tuesday, and I currently have the
25 afternoon of August 17th open and I have all day Wednesday,

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1 the 24th right now, just so you have several days that you can
2 work with. I also have the afternoon of Tuesday, August 23rd
3 open. This is all as of right now and my schedule changes
4 with every passing minute of the day. Just to give you an
5 idea.

6 MR. LIFSHITZ: Yes, thank you.

7 THE COURT: I gather you have two witnesses.

8 MR. LIFSHITZ: Two witnesses.

9 THE COURT: And I don't know if the defense wants to
10 put on a case.

11 MR. LIFSHITZ: I expect we'll finish our direct by
12 one and then the Government will certainly be flexible in
13 scheduling. Our main logistical issue is transporting the
14 witness who doesn't live in the New York City area.

15 THE COURT: Well, you'll work that out whatever
16 among those days are best for everybody.

17 MR. SERCARZ: Thank you, Your Honor.

18 MS. KEDIA: Thank you.

19 THE COURT: You're welcome.

20 (Recess taken.)

21 THE COURT: This is a Fatico hearing continued. We
22 have the same appearances as this morning.

23 The only thing I want to address before we bring the
24 witness out is in connection with the objection that was last
25 made. Well, it wasn't really an objection. Mr. Sercarz had

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1 asked to speak with the Government I suppose about the extent
2 of the testimony, if I'm recalling correctly.

3 MR. SERCARZ: That's right, Your Honor.

4 THE COURT: So I figured we could discuss that
5 before we bring the witness out. We'll bring the witness out
6 and then when we break about one o'clock or so we can talk
7 about the schedule.

8 MR. SERCARZ: We've had the conversation and I've
9 been reassured by Mr. Lifshitz that the line of questioning he
10 is currently intending to pursue deals with crimes committed
11 by this witness and that he will confine himself to any
12 statements allegedly made by my client that were made during
13 the course of the conspiracy, and in particular the acts which
14 the Government has indicated they intend to offer at the
15 Fatico hearing.

16 So until I hear otherwise, I'm satisfied with that.

17 THE COURT: Okay.

18 MR. LIFSHITZ: Just to clarify.

19 THE COURT: Yes, sir.

20 MR. LIFSHITZ: I'm going to ask him about two
21 extortions involving stockbrokers. He started testifying
22 about one.

23 THE COURT: Right, that was one of the topics that
24 was indicated by the Government.

25 MR. LIFSHITZ: That crime did not involve Michael

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1 Persico. It's offered as the witness's Giglio.

2 Then he extorted another stockbroker. Michael
3 Persico did not participate in that extortion, but it
4 culminated in a discussion between the witness and Alphonse
5 Persico about the fact that the witness owed the loansharking
6 money to Michael Persico. So that will come up.

7 THE COURT: I see, all right.

8 So, let's bring out the witness.

9 (Witness resumes the witness stand.)

10 THE COURT: You may have a seat, sir. I remind you
11 that you're still under oath.

12 This is continued direct examination by the
13 Government. You may proceed when you are ready, Mr. Lifshitz.

14 MR. LIFSHITZ: Thank you, Your Honor.

15 BY MR. LIFSHITZ:

16 Q Mr. Russo, before the break, do you remember testifying
17 about a man named Arthur Alonzo?

18 A Yes.

19 Q Can you remind us what his job was?

20 A He was a stockbroker.

21 Q Were you ever involved in a dispute that he was part of?

22 A Yes.

23 Q Can you walk us through what happened in that dispute?

24 A He came to me and Frankie about --

25 Q Frankie who?

1 A BF.

2 About a problem he was having going from one firm to
3 another. He was trying to go to another firm and he was
4 trying to take leads with him as phone numbers of people that
5 buy stock, and basically he lied to us saying that they were
6 his. We found out later on after everything that the firm
7 usually holds on to the leads once you accumulate leads.

8 Q What did you and BF do when Arthur Alonzo presented this
9 situation to you?

10 A We went to the firm he was working for and we tried to
11 get the leads for him, and the owner, we gave him a beating.

12 Q Who did that?

13 A Me, BF, couple other guys that were there.

14 Q Other than this situation, have you ever assaulted anyone
15 else in the stockbroking business?

16 A Me?

17 Q Yes.

18 A Not that I remember.

19 Q Did you ever become involved in a dispute that Bobby
20 Tarantola was part of?

21 A Yes, yes, yes.

22 Q What was the dispute?

23 A Bobby did something with a stockbroker where the guy beat
24 him for a hundred thousand dollars.

25 Q Who owed who that money?

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1 A A stockbroker owed Bobby a hundred thousand.

2 Q How did you get involved?

3 A Bobby came to me and Frankie.

4 Q Frankie who?

5 A BF.

6 Q What did Bobby say to you and BF?

7 A He asked us if we would help him get the money back. He
8 knew where the guy was, where he worked.

9 Q Did you agree to help him?

10 A Yes.

11 Q So what did you and BF do?

12 A We went with Bobby and laid on the guy in Long Island.

13 Q Before you did that, did you seek permission from anyone?

14 A Yeah, we talked to Allie about it.

15 Q Alphonse Persico?

16 A Yes.

17 Q What did you do when you laid on him, as you said?

18 A We waited for him to come out of work and we caught him
19 coming to his car and we gave him a beating.

20 Q What happened after that beating?

21 A The next day I got a phone call from a member of the
22 Gambino family.

23 Q What was his name?

24 A Ronnie, Ronnie "One Arm."

25 Q Ronnie "One Arm"?

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1 A Yeah.

2 Q What did he say to you?

3 A He asked me if I would be able to see him that day.

4 Q Did you agree?

5 A Yes.

6 Q What happened when you met him?

7 A I met him and we discussed -- he asked me what I did the
8 night before, and I was like, "What do you mean by that?" And
9 he says, "Did you have fun last night?" And I said, "Yeah.
10 Why, did you?" I said, "What do you mean by that?" And he
11 says, "You ran into a friend of mine. He's missing a watch."
12 And I was like, "Yeah." I said, "You're talking about the
13 stockbroker kid?" He said, "Yes." And I told him the story
14 what happened.

15 Q What did he say?

16 A He said he would handle it, "But as of right now, please
17 leave him alone," and I said, "No problem."

18 Q What happened next in this dispute?

19 A In the dispute? Nothing. Ronnie called me up a couple
20 weeks later. Well, he came to my house basically, really. He
21 came to my house one night, he came out to Staten Island, and
22 he told me the kid agreed to pay the money, but he's going to
23 pay it in -- pay 50 one time and a couple weeks later give us
24 the other 50.

25 Q 50,000?

1 A 50,000, yes, sorry.

2 Q Did that person pay the money?

3 A Yes, he did.

4 Q What happened to the money?

5 A We split it up.

6 Q Who split it up?

7 A Me, BF, Bobby.

8 Q Do you remember who got what amount?

9 A Yeah. Bobby got most of it and we were supposed to whack
10 up the 50,000, me, Bobby and BF.

11 Q What did you take?

12 A Excuse me?

13 Q What did you take?

14 A Well, the first 50 we got on the way home I took 5,000
15 and left, and Bobby and BF, I don't know where they went, but
16 I got a phone call later on that they --

17 Q From who?

18 A From BF.

19 Q What happened?

20 A Telling me that Allie wanted to see me.

21 Q Did you go see Allie?

22 A Yes.

23 Q What happened when you saw Allie?

24 A He was upset that I took \$5,000.

25 Q Did he explain to you why he was upset?

1 A Yes. He said I shouldn't have took anything until he
2 told me I could take it.

3 Q What was your response to that?

4 A I gave the 5,000 back. I told him, "Here, take it."

5 Q What happened next with the money?

6 A He said, "I don't want it." He says, "I'm just telling
7 you this is how it works. You don't take nothing unless I
8 tell you you could take it." And he said something to the
9 effect about my mortgage, "You're two months behind, what's
10 another day?"

11 Q Were you, in fact, behind on your mortgage?

12 A Yes, I was.

13 Q What, if anything, did he tell you to do with the \$5,000?

14 A Well, we were going to give him something. He said he
15 didn't want it. He said, "You know what, you owe my brother
16 money. Give it to him."

17 Q And who did you understand him to be referring to when he
18 said his brother?

19 A Michael.

20 Q Did you, in fact, owe Michael Persico money at that time?

21 A Yes, I did.

22 Q For what?

23 A Loansharking.

24 Q What happened to you in 2000?

25 A I was arrested.

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1 Q With who?

2 A With BF.

3 Q For what?

4 A A RICO charge.

5 Q Federal case or state case?

6 A Federal.

7 Q In what district?

8 A Southern.

9 Q How did the case get resolved?

10 A I pled out.

11 Q What was your sentence?

12 A 96 months, I believe.

13 Q Before you served that sentence, were you ever out on
14 bail?

15 A Yes.

16 Q Who, if anyone, did you talk to about money while you
17 were out on bail?

18 A Well, when I was out on bail, I had a meeting with
19 Michael about money.

20 Q What did you say to each other?

21 A Nothing. He called me up, he wanted to make sure I was
22 all right and if I had anything to look after for -- if he
23 needed anything take care of, he would handle it, and
24 basically we talked about the money I owed him.

25 Q How much money did you owe him at that point?

1 A I really don't remember. It's 60, 70.

2 Q Sixty, 70,000?

3 A Seventy, maybe a little more. I don't remember exactly.

4 Q You're talking about thousands of dollars?

5 A Yes.

6 Q What, if anything, did Michael say about that money?

7 A Well, he told me to forget about the money I owed him.

8 Q What's your understanding of why he said to forget about
9 it?

10 A Well, I believed he was doing it because he knew that I
11 was part of the murder and that he was trying to make me feel
12 like, you know, I'm doing right thing for you, you do the
13 right thing for me, keep your mouth shut.

14 Q When you served your sentence in that case, did you have
15 a commissary account?

16 A Yes, I did.

17 Q What's a commissary account?

18 A It's an account so you could go to the store and buy some
19 cosmetics and snacks for you to have when you're in prison.

20 Q Were you able to put money in it at first?

21 A In my account?

22 Q Yes.

23 A When I did the time in 2000?

24 Q Yes.

25 A Yes, I was putting my own money in there.

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1 Q Did that change?

2 A After a few years, yeah.

3 Q What changed?

4 A I couldn't afford to put money in my account anymore.

5 Q So what did you do?

6 A I wrote a letter to a friend of mine.

7 Q Who?

8 A Scotty.

9 Q Who's Scotty?

10 A Scotty Reback.

11 Q What's his position, if any, in organized crime?

12 A Associate.

13 Q Of what?

14 A Colombos.

15 Q What do you recall saying to him in your letter?

16 A I don't remember exactly. I said that I just need help
17 with money, I have no money.

18 Q What happened next?

19 A He reached out to my girlfriend, my ex-girlfriend, and he
20 told her to come by once a month and he'd give her 250, \$300 a
21 month.

22 At that time, I only had about two years left on my
23 bid anyway, but he gave my girl some money every month.

24 Q Did the money get deposited in your commissary account?

25 A Yes, it did.

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1 Q When you were released, who, if anyone, did you talk to
2 about that money?

3 A On my release, down the road I talked to Scotty about it.
4 I thanked him for it.

5 Q I'm sorry?

6 A I said I thanked Scotty for it when I got home.

7 Q Did you discuss it with anyone else?

8 A No, not really, no.

9 Q Did you learn where the money came from?

10 A Yeah, through Scotty.

11 Q What did he say?

12 A He said through the vending machines. He told me, "Thank
13 Michael 'cause that vending machine, whatever I get out of it
14 I send to you and sometimes to BF."

15 Q Do you understand what vending machines he was referring
16 to?

17 A Yeah, the vending machines in his store.

18 Q Whose store?

19 A Scotty's.

20 Q What kind of store does Scotty have?

21 A It's a dealership, car dealership.

22 Q After your 2000 arrest in the federal case, in what year
23 were you released?

24 A From the feds?

25 Q Yes.

1 A 2007.

2 Q Were you allowed to live at home?

3 A In the beginning, no.

4 Q Where did you live?

5 A I was in a halfway house.

6 Q At that time in 2007, did you get any legitimate work?

7 A Yes.

8 Q What kind of work?

9 A I was working for a moving company.

10 Q Were you actually going to that job?

11 A Yes.

12 Q Were you on supervised release at that time?

13 A Yes.

14 Q What were some of the conditions you recall?

15 A Same thing as -- no hanging out with known felons, no
16 possessing firearms, no -- no getting in trouble basically.

17 Q Did you violate those conditions?

18 A Every one of them, yes.

19 Q When you were in the halfway house, who, if anyone, did
20 you talk to about getting inducted into the Colombo family?

21 A I talked to -- when I got to the halfway house, I talked
22 to my friend Carmine and Andre.

23 Q Who was Carmine?

24 A Carmine is Michael's cousin.

25 Q Is his last name Persico also?

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1 A Yes, it is.

2 Q And what was his position in the crime family?

3 A Associate.

4 Q Did you mention Andre also?

5 A Yes.

6 Q What was his position?

7 A He was a made member.

8 Q What, if anything, did Andre say to you about getting
9 inducted?

10 A He said he got a message recently and to tell me that
11 Alphonse, "Allie Boy" wanted to have me straightened out, have
12 me get inducted into the family.

13 Q By the way, I don't know if I asked you this.

14 What was Alphonse Persico's position in the crime
15 family at this time?

16 A When I was home and he was home, he was the acting boss,
17 and when I came home 2007, he sent that message down, I
18 considered him the acting boss still.

19 Q Where was he at that time?

20 A In prison.

21 Q Did you actually get inducted in the year 2007?

22 A No.

23 Q Did someone in the family explain to you why you didn't
24 get inducted?

25 A Yes, Andre did. Andre came and told me that he was

1 trying to work it out with Dino.

2 Q Dino who?

3 A I forgot his last name.

4 Q Is it the Dino you testified about earlier?

5 A Yes.

6 Q So what happened?

7 A He said, "Dino said right now Tommy can't do nothing for
8 you because they got a lot of heat on them and it would be a
9 bad time."

10 Q Who was Tommy?

11 A Tommy Gioeli.

12 Q What was his position?

13 A He was a street boss.

14 Q What is a street boss?

15 A Street boss acts for the boss of the family. When the
16 boss is not around, he makes basically the little decisions on
17 the street, but when it comes to big decisions, he's got to
18 get permission.

19 Q When did your supervised release end from your 2000 case?

20 A I came home August or September, I don't know, July, some
21 time mid to late 2007. Eleven months later I was off parole.
22 Around November 2008.

23 Q That's when your supervised release ended?

24 A Yeah, November, December.

25 Q At that time, who, if anyone, did you talk to about your

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1 possible induction into the Colombo family?

2 A Andre and I had a conversation with Michael.

3 Q What did Michael say to you?

4 A Well, right after I got off parole, he asked to see me.

5 So I went down to see him, and he was basically telling me,

6 "You know what's going on, my brother wants to have you

7 straightened out." I said, "Yes, I know," and I even asked

8 about BF.

9 Q You asked him about BF?

10 A Yeah. I said, "What about BF?" He said, "Don't worry

11 about BF right now."

12 Q What advice, if anyone, did Michael Persico give you

13 about getting inducted?

14 A He was telling me that I got to change my ways and calm

15 down, walk with a softer stick, speak softer. Basically

16 telling me how to act.

17 Q At some point after you were released in 2007, did you

18 own or lease a Nissan automobile?

19 A Yes.

20 Q Did you have any problems with it?

21 A Car was a good car. No problems. I just couldn't afford

22 it.

23 Q So what did you do?

24 A I talked to a couple friends of mine, told them to -- I

25 need to get rid of the car 'cause I'm not paying the payments

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1 on it no more.

2 Q Did someone do that for you?

3 A Yes.

4 Q Who?

5 A I talked to Ambrose and Roger and they just told me,
6 Ambrose told me, "Leave the car wherever you're going to park
7 it. Let me know where it's parked and the next day when you
8 go there, you'll see the car will be totalled." I said,
9 "Okay, thank you."

10 Q Did that happen?

11 A Yes.

12 Q Who were Ambrose and Roger?

13 A Ambrose and Roger are associates of the Colombo family.

14 Q After the car was totalled, did that help you?

15 A Well, it didn't help me any, but it helped me pay the
16 note on the car and get rid of it.

17 Q You got rid of the debt?

18 A Yeah.

19 Q Have you also -- so just to be clear, was that a form of
20 fraud?

21 A I believe so, yes.

22 Q Were you also involved in any fraud involving physical
23 injury?

24 A Yeah, my knee.

25 Q What happened?

1 A I hurt my knee really bad and I needed a surgery and I
2 didn't have insurance. So, I was talking to a friend of mine
3 one day. He told me, "You know, just claim that you fell in
4 front of my house and we'll go through the insurance that way
5 this way you get your knee fixed."

6 Q Did you claim to insurance that you fell in front of your
7 friend's house?

8 A Yes, I did.

9 Q Was that true?

10 A No.

11 Q Did you get money for it from insurance?

12 A Yes.

13 Q Did you ever interfere in a criminal case involving a son
14 of yours?

15 A Yes, yes, yes, yes.

16 Q What was your son accused of doing?

17 A My son Anthony was accused of selling a pound of weed.

18 Q What did you do?

19 A I threatened the kid he was with and his family to tell
20 him to take the rap for it.

21 Q Was that kid a co-defendant?

22 A Yes, he was.

23 Q In 2007 how did you make money?

24 A I was -- I was working legitimately and I was starting my
25 business again, the loansharking.

1 Q At that time, who did you get money from to loan shark?

2 A Anthony Stropoli.

3 Q Were you eventually inducted into the Colombo family?

4 A Yes.

5 Q When?

6 A 2009.

7 Q What time of year?

8 A It was beginning of the year.

9 Q After your induction, were you assigned to report to
10 anyone?

11 A Yes.

12 Q To who?

13 A To "Teddy Boy."

14 Q Teddy Persico, Junior?

15 A Yes.

16 Q What was his position?

17 A At the time, he was a captain.

18 Q Did he have an acting captain for him at that time?

19 A No, but he needed one.

20 Q Did he come to have one?

21 A Yes.

22 Q Who was his -- who became his acting captain?

23 A Anthony Stropoli.

24 Q Was Teddy Persico, Junior in prison at that time?

25 A No.

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1 Q So why did he need the acting captain?

2 A Because they wanted to keep him safe.

3 Q Just to be clear, right after you were inducted, what was
4 your position in the Colombo family?

5 A I was a made member.

6 Q Did that change? Did you come to assume another
7 position?

8 A Yeah, down the road, yes.

9 Q What position did you come to hold?

10 A Acting captain for Teddy.

11 Q Around when did you become acting captain for Teddy?

12 A I don't know, 2010 something. I don't remember.

13 Q How did that happen?

14 A Andrew wanted me to take his position from Anthony
15 Stropoli.

16 Q Andrew who?

17 A Russo.

18 Q Is he related to you?

19 A No.

20 Q What was his position in the crime family?

21 A He was the acting boss.

22 Q Sorry, in 2010 was he the acting boss?

23 A Yes.

24 Q After you became acting captain, who, if anyone, was
25 around you?

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1 A There was a bunch of guys with me: Joey Savarese, Tommy
2 McLaughlin, "Fat Larry," BF. I can't think of them all.
3 Roger, Ambrose.

4 Q What was Joe Savarese's position in the crime family?

5 A He was a made member.

6 Q And the other people you mentioned, McLaughlin, "Fat
7 Larry," BF, Roger and Ambrose, what were their positions?

8 A They were all associates.

9 Q In or around 2009, did you open a legitimate business?

10 A Tried to, yes.

11 Q With who?

12 A With Frankie, BF.

13 Q What business did you open or try to open?

14 A Car detailing products.

15 Q What was it called?

16 A Maximum Car Protection.

17 Q How did you and BF get money to start the business?

18 A Well, Frankie laid out some money that he had and we
19 borrowed the rest.

20 Q From who?

21 A Well, we asked Michael about it and he -- he shifted it
22 over to Scotty. He told us go see Scotty, Scotty will help
23 you out.

24 Q The Michael you mentioned was Michael Persico?

25 A Yes.

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1 Q And Scotty was Scotty who?

2 A Scotty Reback.

3 Q Did Scotty give you money?

4 A Yes.

5 Q Did you actually open this business?

6 A Yes, we did.

7 Q Where was it located?

8 A On 11th Avenue and 67th, 68th Street.

9 Q In Brooklyn?

10 A Yes.

11 Q What space was that?

12 A It was a garage.

13 Q Whose garage was it?

14 A It was Michael's garage.

15 Q What had it been used for previously?

16 A It was where he used to keep his limousines.

17 Q How did you get access to that space?

18 A I asked -- we asked Michael if he knew of a spot. I
19 think Frankie asked him if he knew if he could help us out
20 with a garage or something. He told us we could use the
21 garage, but his brother-in-law had stuff in there. So if we
22 could share the space, it would be good for both of us.

23 MR. SERCARZ: Could we have a time frame?

24 THE COURT: About what year was this?

25 THE WITNESS: 2010, the end of '9, 2009, beginning

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1 of '10, around there.

2 MR. SERCARZ: I'm sorry, I didn't hear the answer.

3 THE COURT: 2009 to 2010, beginning of 2010.

4 MR. SERCARZ: Thank you, Your Honor.

5 THE COURT: We need you to keep your voice up a
6 little bit.

7 THE WITNESS: Thank you.

8 BY MR. LIFSHITZ:

9 Q What else, if anything, did you ask Michael Persico for
10 at that time?

11 A I have no clue besides asking him about that.

12 Q Well, let me ask a different question.

13 Did you need any additional help starting up your
14 business?

15 A Yeah, if we wanted -- we wanted to get some -- we wanted
16 to get the business going. We asked him if we could -- he
17 could reach -- he could reach out to John Staluppi and Rosatti
18 so we could get their dealerships and put our products in
19 them.

20 Q Who were John Staluppi and John Rosatti?

21 A Rosatti and Staluppi are made members of the Colombo
22 crime family.

23 Q Just to be clear, who did you ask to reach out to those
24 two guys?

25 A We asked Michael.

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1 Q Aside from being members of the Colombo family, did
2 Staluppi and Rosatti own legitimate businesses?

3 A Yes, they do.

4 Q What kind?

5 A Car dealerships.

6 Q What did Michael Persico say when you asked him for help
7 contacting Staluppi and Rosatti?

8 A He said no problem.

9 Q Did you get any business through Staluppi or Rosatti?

10 A Yes, we did.

11 Q Which one or was it both?

12 A Rosatti, we got most of his dealerships on Nostrand
13 Avenue. Staluppi, we got a couple.

14 Q Were you satisfied with Staluppi's help?

15 A Not me, no.

16 Q So what did you do?

17 A I kept on asking him, you know, and he kept on saying --
18 I kept on asking Michael and I was telling BF, you know, you
19 got to keep going there, we got to try to get more of these
20 dealerships, and I told Michael and he said he would take care
21 of it, he would go back and talk to them, see if we could get
22 some more, and basically I didn't want to bother him anymore,
23 so.

24 Q Bother who?

25 A Michael.

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1 Q So what did you do?

2 A 'Cause he was busy doing his own thing.

3 Q So what did you do?

4 A So I met Scotty one day, we were just bullshitting around
5 and I asked him instead of me going to Michael all the time
6 and breaking his chops, "Why don't you just do the right
7 thing, go see your father-in-law and tell him to do the right
8 thing for us."

9 Q Scotty who?

10 A Scotty Reback.

11 Q Who was Scotty Reback's father-in-law?

12 A John Staluppi.

13 Q So you were asking Reback to go to Staluppi?

14 A Yes.

15 Q What did Scotty Reback say to you?

16 A He says, "All right, I'll see what I can do."

17 Q What happened next?

18 A He went and told Michael.

19 Q How do you know?

20 A And Michael took it as I was going behind his back.

21 Q Who told you that?

22 A Who told me that?

23 Q Yes.

24 A Well, Teddy did.

25 Q Teddy who?

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1 A Teddy Persico, his cousin.

2 Q What did Teddy say about that?

3 A I got a phone call from his brother-in-law Angelo and
4 told me to come down, meet him down in Greenpoint. They were
5 at one of the feasts down there.

6 Q Whose brother-in-law is Angelo?

7 A Michael's brother-in-law Angelo.

8 Q What's his last name?

9 A Spata.

10 Q So he called you to meet?

11 A Yes, he told me to come down, he wanted to see me. When
12 I got down there, Teddy was down there.

13 Q So, when you went to meet at the feast, who did you see?

14 A I went to meet him, I met Angelo. We went to a little
15 restaurant in the back and I didn't know Teddy was there.
16 When I got there "Teddy Boy" was there. Me and BF was there.

17 Q What happened at the meeting?

18 A We started talking. Teddy told me, "What did you do?" I
19 said, "I don't know. I do a lot of things. What did I do?"
20 And he said, "You went behind my cousin's back and tried to
21 reach out to Staluppi." And I was like, "How did I do that?"
22 He says, "You went to Scotty." I said, "Scotty's our friend.
23 How am I going behind his back by going to Scotty? It's his
24 father-in-law." And he made a big thing out of it.

25 Q Who made a big thing out of it?

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1 A Teddy. He got upset with me, "Don't ever do it again.
2 The only body reaches out to Staluppi is my cousin Michael."
3 I said, "Okay."

4 Q What, if anything, did Spata say at this meeting?

5 A Spata. Spata said, I remember right, he said something
6 about to the effect that, "You know you only listen to my
7 father-in-law, "Allie Boy," and my cousin Michael -- my
8 brother-in-law Michael." And I turned around and I said, "I
9 listen to "Teddy Boy."

10 Q You testified about a Colombo family member named Anthony
11 Stropoli.

12 Do you recall that?

13 A Excuse me?

14 Q Do you recall testifying about Anthony Stropoli?

15 A Yes.

16 Q Was he a member of the crime family, Colombo crime
17 family?

18 A Yes.

19 Q Did he have a legitimate business?

20 A Yes.

21 Q What was it?

22 A Fish company.

23 Q What did he sell?

24 A Fish.

25 Q To who?

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1 A Restaurants, hotels.

2 Q Like a wholesale business?

3 A Wholesale, yes.

4 Q Did you ever try to go into a legitimate business with
5 Stropoli?

6 A Yes.

7 Q What kind of business?

8 A Valet parking.

9 Q Valet park?

10 A Yes.

11 Q Where did you and Stropoli want to do that?

12 A We were going to try to get something going in New
13 Jersey.

14 Q Why New Jersey?

15 A Because that's where most of his business was, his
16 restaurants that he dealt with.

17 Q Who, if anyone, did you and Stropoli go to for advice?

18 A Well, after me and Anthony talked about going into
19 business doing that, he directed me to a kid named Anthony, I
20 forgot his last name. He ran a couple of valet parking
21 systems and so we reached out to him. I went to meet him.

22 Q Where did you understand his valet business was?

23 A Well, I knew he had a company, the kid Anthony had a
24 couple in Staten Island.

25 Q Did you actually meet Anthony?

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1 A Yeah.

2 Q What happened?

3 A Well, when I got there to meet him, Michael was there.

4 Q Michael who?

5 A Persico.

6 Q And what happened?

7 A Michael asked me what was going on, "I heard you want to
8 open up a business." I said, "Yeah." And he says, you know,
9 he was, "Why would you want to go into the valet parking
10 business?" I said, "'Cause I want to do something legit."

11 MR. SERCARZ: Again may we have a time frame?

12 THE COURT: Yes.

13 About what time did this happen, the years?

14 THE WITNESS: I don't -- it's either 2010.

15 THE COURT: 2010?

16 THE WITNESS: '9, '10, around that.

17 THE COURT: 2009, 2010.

18 BY MR. LIFSHITZ:

19 Q I'm sorry, can you repeat what Michael Persico said to
20 you?

21 A He said a lot of things I don't remember exactly, but I
22 know he said to me, 'cause I got upset when he says, "How
23 about if I open up a -- how would Anthony and you like if I
24 opened up a -- a fish company?"

25 Q What did you understand that to mean?

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1 A He was being cute. So I turned around and told him, "Go
2 ahead, open up a fish company."

3 Q What else did Michael Persico say to you?

4 A He said, "Why don't you make your life easier, you know,
5 just by doing right -- you know, give us the valet -- do the
6 hotels and the restaurants that you're going to go to. Let us
7 go there and put our valet there and you guys just sit back
8 and collect a check. Give you like 20 percent of every
9 company, you know, every place you give us."

10 Q Did you then go out and try to get business for Anthony
11 and Michael's valet business?

12 A After I went back and talked to Anthony about it and told
13 him and Anthony said he didn't want to be bothered and then we
14 said yeah, we'll just try to get him some business.

15 Q Where did you do that?

16 A Jersey.

17 Q Did you get him any specific business that you recall?

18 A One restaurant, maybe two. I don't remember exactly the
19 name of the restaurant. It was in Red Bank somewhere.

20 Q What kind of restaurant?

21 A I think it's an Italian restaurant.

22 Q Did you ultimately start your own valet business with
23 Anthony Stropoli?

24 A No.

25 Q Why not?

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1 A Because we didn't want problems, me and Anthony.

2 Q What kind of problems?

3 A Any kind of problem.

4 Q From who?

5 A From Michael.

6 Q What happened to you in January 2011?

7 A I was arrested.

8 Q Federal or state case?

9 A Federal.

10 Q What were the most serious crimes you were charged with?

11 A Murder.

12 Q Were you charged with a racketeering case?

13 A Racketeering act, yeah.

14 Q The murder of who?

15 A Joey Scopo.

16 Q What did you decide to do in your case?

17 A Cooperate.

18 Q How soon after you were arrested did you decide to
19 cooperate?

20 A Twenty minutes, half-hour.

21 Q After you were arrested, were you incarcerated?

22 A Yes, I was.

23 Q And were you in jail throughout the pendency of your
24 case?

25 A Yes, I was.

1 Q At times after you began cooperating, did the Government
2 provide you some commissary money?

3 A Yeah.

4 Q Did you ultimately plead guilty?

5 A Yes, I did.

6 Q What were the most serious crimes you pled guilty to?

7 A Murder, murder conspiracy, gun charge, drugs,
8 racketeering.

9 Q When you pled guilty, what was the maximum sentence you
10 faced?

11 A Life.

12 Q Did you sign a cooperation agreement?

13 A Yes, I did.

14 Q What was your understanding of what you had to do under
15 that agreement?

16 A The agreement that I had to tell the truth, everything,
17 all the truth, and pray to God that the judge understood.

18 Q And if you fulfilled --

19 A And give me less time than life.

20 Q So, if you fulfilled your obligations, what did you
21 believe the Government was obligated to do?

22 A They weren't obligated to do anything except give me
23 that, you know, the okay, the 5K1 letter.

24 Q What is your understanding of what a 5K1 letter is?

25 A It's a cooperating agreement that the judge can look at

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1 and go under the guidelines if I did everything I was supposed
2 to do by cooperating, telling the truth.

3 Q Were you supposed to pay forfeiture under your agreement?

4 A Yes.

5 Q Have you done that?

6 A No.

7 Q Why not?

8 A 'Cause I don't have the money.

9 Q After you pled guilty, don't tell us where you went, but
10 were you ever placed in a special kind of facility?

11 A Yes.

12 Q What's that called?

13 A WITSEC.

14 Q And other than in jail, have you been part of any WITSEC
15 program?

16 A No.

17 Q After you pled guilty in your 2011 case, did you
18 eventually testify in court?

19 A Yes.

20 Q Was that here in this courthouse?

21 A In this courthouse, yes.

22 Q At whose trial?

23 A Frank Guerra.

24 Q After you testified, were you sentenced?

25 A Yes, I was.

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1 Q When you were sentenced, did the Government provide the
2 judge a 5K letter?

3 A Yes, they did.

4 Q Do you recall when you were sentenced?

5 A October 16th.

6 Q Of what year?

7 A 2013.

8 Q And what was your sentence?

9 A Time served.

10 Q So about how much time did you serve in total?

11 A I served 33, 34 months.

12 Q Without telling us where you lived, after you were
13 released, did the Government provide you some help with moving
14 expenses?

15 A Yeah, they moved my family, yeah.

16 Q And why are you testifying here today?

17 A Under the agreement, I have to testify.

18 MR. LIFSHITZ: No further questions, Your Honor.

19 THE COURT: So, sir, I'm going to direct you that
20 since we are going to continue this hearing on a different day
21 that you cannot discuss your testimony any further with the
22 Government. You certainly will be able to discuss scheduling,
23 but that's about it, okay, not your testimony. And I'm sure
24 the Government will let you know when we're going to need you
25 back here in court to continue the testimony.

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1 So, you're excused.

2 THE WITNESS: Thank you.

3 (The witness leaves the witness stand.)

4 THE COURT: Did the parties have an opportunity to
5 discuss scheduling?

6 I know it's so hard to kill the impulse to stand,
7 but if you'll just bear with me, it's the marble. It's
8 something about the acoustics of the room, it's hard for us to
9 hear you and hard for the audience to hear if you're not
10 seated and speaking into the microphone. I kind of do miss
11 that old habit of standing up, the old protocols, but I'd
12 rather have a clear record.

13 MR. SERCARZ: I miss it too. It's good for my
14 joints.

15 THE COURT: Yes, I can relate to that, absolutely.

16 MR. SERCARZ: Your Honor, would the 24th work?
17 We've discussed it. It's a day when all the attorneys seem to
18 be free of conflicts.

19 THE COURT: And I do have the whole day available
20 right now so that we can go to the end.

21 If the parties would like, I would imagine that,
22 since the Government took all morning to present its case,
23 that it's only fair to assume that the defense might go equal
24 time. Plus there might be redirect and recross. If you like,
25 I can just reserve time on the following day, August 25th,

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1 which is a Thursday. If the parties want to just block off
2 some time in the off chance that we need some spillover time,
3 because otherwise I can't guarantee that the days won't get
4 full.

5 MR. SERCARZ: I think that we should do that.

6 MS. KEDIA: I think that makes sense, Judge.

7 THE COURT: Is that good for the Government as well?

8 MR. LIFSHITZ: Yes, Your Honor.

9 THE COURT: All right. So, for the 24th we'll start
10 at 10 o'clock and continue the hearing. Then on the 25th I do
11 have one matter in the morning, but it's not going to be very
12 long. We can start at 11 o'clock and I can leave the rest of
13 the day clear for this case so that we can finish up.

14 MR. SERCARZ: Thank you, Your Honor.

15 THE COURT: If we don't need it, we don't need it,
16 but I'd rather reserve it now just because I know not only my
17 schedule, but I know you're all busy attorneys and I'm sure
18 your schedules get pretty busy as well.

19 All right. Thank you all very much.

20 (Time noted: 12:57 p.m.)

21 (Proceedings were adjourned to August 24, 2016, at
22 10:00 a.m.)

23

24

25

I N D E X

WITNESS

PAGE

ANTHONY RUSSO

DIRECT EXAMINATION

BY MR. LIFSHITZ

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 -against-

6 MICHAEL PERSICO,

7 Defendant.

10-CR-147(DLI)

United States Courthouse
Brooklyn, New York

August 24, 2016
10:00 a.m.

8
9 TRANSCRIPT OF CRIMINAL CAUSE FOR FATICO HEARING
10 BEFORE THE HONORABLE DORA L. IRIZARRY
11 UNITED STATES CHIEF DISTRICT JUDGE

12 APPEARANCES

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24 Proceedings recorded by mechanical stenography. Transcript
25 produced by computer-aided transcription.

1 (In open court.)

2 THE COURT: Please be seated.

3 THE COURTROOM DEPUTY: Criminal cause for continued
4 Fatico hearing, Docket Number 10-CR-147, United States versus
5 Michael Persico.

6 Please state your appearances.

7 MR. LIFSHITZ: Allon Lifshitz for the United States,
8 and I'm joined at counsel table by FBI Special agent Chance
9 Adam, and a paralegal from our office named Olivia Lemons.

10 Good morning, Your Honor.

11 THE COURT: Good morning to all of you.

12 For defendant.

13 MR. FERNICH: Good Morning, Your Honor, Marc Fernich
14 from Mr. Persico.

15 THE COURT: Good Morning.

16 MR. SERCARZ: Maurice Sercarz, S-E-R-C-A-R-Z.

17 THE COURT: Good morning.

18 MS. KEDIA: Good morning, Your Honor, Sarita Kedia
19 for Mr. Persico.

20 THE COURT: Good morning.

21 Good morning, Mr. Persico.

22 THE DEFENDANT: Good morning.

23 THE COURT: All right, so this is continuation of a
24 Fatico hearing. The Government's first witness, Anthony
25 Russo, the direct was completed of Mr. Russo, so we're on for

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1 cross-examination, and I gather your witness is here.

2 MR. LIFSHITZ: Yes, he is, Your Honor. We can go
3 get him, if the Court is ready.

4 THE COURT: So there were a number of letters that
5 were filed at the very last minute yesterday afternoon. I
6 will address those after we get done with the witness today,
7 okay. And let's move forward with the testimony.

8 So if you want to get set up while we bring in the
9 witness. Thank you.

10 (Witness resumes the stand.)

11 ANTHONY RUSSO, called as a witness, by the Government, having
12 been previously first duly sworn/affirmed, was examined and
13 testified further as follows:

14 THE COURT: Good morning, sir. If you could just
15 tell your name again for the record.

16 THE WITNESS: Anthony Russo.

17 THE COURT: Thank you. Good morning. And I'm going
18 to remind you that you are still under oath.

19 Again, this is cross-examination by defense counsel.

20 Ms. Kedia, are you conducting the cross?

21 MS. KEDIA: I am, Your Honor.

22 THE COURT: Okay. You may proceed whenever you're
23 ready.

24 CROSS-EXAMINATION

25

Russo - Cross - Kedia

1 BY MS. KEDIA:

2 Q Mr. Russo, good morning.

3 A Good morning.

4 Q So you testified here a couple of weeks ago on direct
5 examination; you recall that.

6 A Yes.

7 Q And before your direct examination, Mr. Russo, did you
8 meet with the government to prepare for your testimony?

9 A Yes, I did.

10 Q How often did you meet with them?

11 A Before last week?

12 Q Yes.

13 A One time.

14 Q And did you speak to them on the phone?

15 A Not that I remember, no.

16 Q And you prepared for your testimony at -- there was going
17 to be a hearing at a prior occasion, right; you remember that?

18 A Yes.

19 Q And you prepared at that time as well?

20 A Went over certain things, yes.

21 Q You went over certain things with the government about
22 what you were going to say on the witness stand?

23 A Not what I was going to say. What I testified against.

24 Q What you were testifying to?

25 A Yes.

Russo - Cross - Kedia

1 Q And before you testified at Frank Guerra's trial, you
2 went over your testimony repeatedly with the government; is
3 that right?

4 A A few times, yes.

5 Q You met with them 15 to 20 times; is that right?

6 A I don't remember that number.

7 Q You don't remember that?

8 A Twenty times you're telling me? I don't remember how
9 many times. It was quite a few.

10 Q It was quite a few.

11 A Yes.

12 Q You don't remember --

13 THE COURT: Okay, enough. All right, this is a
14 hearing. So asked and answered. You get one shot at asking
15 your question.

16 MS. KEDIA: Yes, Your Honor.

17 THE COURT: There's no jury here. Move it.

18 Q Mr. Russo, you testified about a number of crimes you
19 committed since you were 15 or 16 years old, right?

20 A Yes.

21 Q You stole cars and trucks?

22 A Yes.

23 Q You carried guns?

24 A Yes.

25 THE COURT: Are you asking a question or making a

Russo - Cross - Kedia

1 statement?

2 MS. KEDIA: I'm asking a question.

3 THE COURT: That's not a question, you're making a
4 statement. Ask the question. At least make some attempt at
5 putting it in a question form, at the very least. You're
6 given some leeway on cross to ask leading questions, but at
7 least put it in a question. You want to testify, get on the
8 stand.

9 BY MS. KEDIA:

10 Q Mr. Russo, what kind of guns did you carry?

11 A Handguns.

12 Q What kind of handguns specifically, if you recall?

13 A .38 special. .38-caliber. .25-automatic.

14 Q A number -- you carried a number of different types --

15 A I got arrested with a .32-automatic in my hands -- my
16 pants, yes.

17 Q I'm sorry?

18 A Quite a few different guns.

19 Q And from the time you were 15 or 16 years old, did you
20 consider yourself to be associated with the Gambino family?

21 A Yes.

22 Q And were you around a guy, associating with a guy by the
23 name of Frankie Martin?

24 A Yes.

25 Q And did you commit crimes with Mr. Martin?

Russo - Cross - Kedia

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1 A No, I did not.

2 Q You didn't commit any crimes?

3 A No, I did not; no.

4 Q Did you start shylocking with Frankie Martin?

5 A No, with Perkie.

6 THE COURT: Perkie? Who's Perkie?

7 A He was just a guy around Frankie. He used to give me the
8 money so I could shylock.

9 Q So someone around --

10 A Frankie.

11 Q -- Frankie, this Gambino guy --

12 A Yes.

13 Q -- you were shylocking with this other person?

14 A Yes.

15 Q Okay. And when I say "shylocking," do you understand
16 that to be lending out money to people for --

17 A I understand that.

18 Q Now, you spoke about a guy, a kid whose jaw you broke.

19 Do you remember that?

20 A Okay.

21 Q Is that right?

22 A Yeah.

23 Q You testified about that on direct examination?

24 A Yes, I did.

25 Q And you said that you broke his father's head open as

Russo - Cross - Kedia

1 well?

2 A No, he just asked me if I broke his jaw, yes. Yes, I
3 did.

4 Q Did you break his father's head open as well?

5 A Yes, I did.

6 Q And was this over a drug debt?

7 A Yes.

8 Q And do you remember that it was a 50-dollar drug debt?

9 A It wasn't \$50.

10 Q It wasn't or you don't remember?

11 A I don't believe it was, no.

12 Q Let me show you, if I may --

13 A Show me whatever you want.

14 THE COURT: Wait for a question to be asked, okay?

15 THE WITNESS: Thank you, yes. No problem.

16 Q Let me show you, if I may, 3500AR2A.

17 Your Honor, may I approach?

18 THE COURT: What is that, please, for the record.

19 MS. KEDIA: 3500AR2A, it's a New York City
20 Department of Probation document, Your Honor.

21 Q And I'll refer you to page 2.

22 Your Honor, may I question the witness from here?

23 THE COURT: No, go up there.

24 You're asking him if this refreshes his
25 recollection, correct?

Russo - Cross - Kedia

1 MS. KEDIA: Yes, Your Honor.

2 THE COURT: Just take a look at it, let us know when
3 you're done looking at it, okay?

4 THE WITNESS: Yes. Okay.

5 Q Mr. Russo, does that refresh your recollection that it
6 was a 50-dollar drug debt?

7 A No.

8 MR. LIFSHITZ: Your Honor, the document appears to
9 contain information provided by the plaintiff, not by the
10 witness. It speaks for itself.

11 THE COURT: This isn't a document that was prepared
12 by this witness, this was prepared presumably by a probation
13 officer.

14 Q Mr. Russo, do you recall the father, the kid's father,
15 had already repaid the debt before you broke his head open?

16 A Yes, he did pay me.

17 Q And you still broke his head open.

18 A Well, he came at me first, so.

19 He's the one that started the problem. He swung a
20 carjack at me.

21 Q The father swung a carjack at you?

22 A Yes, he swung a carjack at me.

23 THE COURT: Okay, two people cannot talk at the same
24 time because the reporter cannot take down everything.

25 So, ma'am, you need to wait until he finishes his

Russo - Cross - Kedia

1 answer; and you need to wait, sir, until the attorney finishes
2 her question, okay?

3 THE WITNESS: Okay.

4 BY MS. KEDIA:

5 Q Now, Mr. Russo, you have been committing crimes your
6 entire life; is that fair to say?

7 THE COURT: Asked and answered.

8 Q You were -- you committed murder; is that right?

9 A Yes.

10 Q Attempted murder on a number of occasions?

11 A Yes.

12 Q Various home invasions and brutal assaults; is that
13 right?

14 A Home invasions?

15 Q Yes.

16 A Yes, I did.

17 Q Brutal assaults?

18 A Brutal? Assaults.

19 You want to call them brutal, you can call them
20 whatever you want.

21 Q Mr. Russo, when you were arrested in 2011, did the
22 government seek to detain you?

23 Do you recall that?

24 A Yes.

25 Q And did you see the government's detention memo at that

1 time?

2 A I don't remember.

3 Q Are you aware that they had you on recordings stating
4 that you were carrying pistols, that you were threatening to
5 hit someone in the head with a pipe, that you were saying you
6 wanted to chop the head of a rat? Isn't that right?

7 MR. LIFSHITZ: Objection to form.

8 THE COURT: Sustained.

9 You know, I realize that the rules of evidence are
10 relaxed, but this isn't a free for all.

11 MS. KEDIA: Yes, Your Honor. I'll ask the questions
12 one at a time. Sorry, I was trying to speed it up.

13 THE COURT: Well not only that, you're reading from
14 a document that is not in evidence as well.

15 MS. KEDIA: I understand. I'm asking the witness --

16 THE COURT: I understand and I'm telling you about
17 what rules to follow.

18 MS. KEDIA: Yes, Your Honor.

19 THE COURT: Thank you.

20 MS. KEDIA: I will try.

21 THE COURT: Thank you.

22 Q Mr. Russo, do you recall that the government had you on
23 recording stating that you were carrying a pistol?

24 A When I was at my detention hearing?

25 Q Yes.

Russo - Cross - Kedia

1 A I didn't know about that, no.

2 Q When did you learn about the government's recording?

3 THE COURT: Assuming a fact not in evidence.

4 Q Did you learn, did you come to learn that there were
5 recordings of you talking about committing a number of crimes?

6 A Yes.

7 Q When did you learn that?

8 A When I met my lawyer.

9 Q And when was that?

10 A Couple of days after I was arrested.

11 Q And what did you learn specifically about that?

12 A Specifically? That I was on tape talking about a lot of
13 things, yes.

14 Q And did you learn that -- who you were on tape with?

15 A Yes.

16 Q And who was that?

17 A Bunch of guys.

18 Q Did you learn who recorded you?

19 A Yes, I did.

20 Q Who recorded you?

21 A Tommy McLaughlin.

22 Q Did you learn that Peter Tagliavia also recorded you?

23 A Yes, I did.

24 Q Who is Tommy McLaughlin?

25 A Tommy McLaughlin was an associate of ours.

Russo - Cross - Kedia

1 Q Someone you spent a lot of time with; is that right?

2 A Yes, I did. Yes.

3 THE COURT: I'm sorry, when you say "of ours," who
4 do you mean?

5 THE WITNESS: He was around the family. He's an
6 associate of the family.

7 THE COURT: Colombo family?

8 THE WITNESS: Yes.

9 Q And, Mr. Russo, and he was specifically an associate of
10 yours; is that right?

11 A Yes.

12 Q He's someone who answered to you; is that right?

13 A Yes, I guess you could say that.

14 Q And Peter Tagliavia, who is he?

15 A He's an associate of mine.

16 Q He's also someone you spent a lot of time with?

17 A Not as much as Tommy but, yeah.

18 Q And you learned that he made a number of recordings of
19 you as well?

20 A Yes.

21 Q Now, you were surprised, certainly, to learn that these
22 guys had been recording you; is that right?

23 A A hundred percent.

24 Q You had committed a lot of crimes with these guys; isn't
25 that right?

Russo - Cross - Kedia

1 A Not really.

2 Q You hadn't been committing crimes --

3 A I committed crimes but not what you're saying.

4 Q Well, explain what kind of crimes you committed.

5 A We talked --

6 Q With these two individuals?

7 We'll talk about McLaughlin and Tagliavia.

8 A Well, they would do pushing money for me, shylocking
9 money for me.

10 Q Did go out and assault people with them?

11 A You act like I was assaulting people every day, the way
12 you say it.

13 THE COURT: Stop.

14 Okay, instead of being argumentative, just answer
15 the question, okay? Answer the question, to the best of your
16 ability.

17 Q Mr. Russo, did you go out and assault people with them?

18 A Yes, I did.

19 Q Now, at some point after you were arrested and learned
20 about these recordings and these individuals having taped you,
21 you began cooperating with the government; is that right?

22 A Yes, I did.

23 Q And after you began cooperating, you entered into a
24 cooperation agreement and took a guilty plea, right?

25 A Yes.

Russo - Cross - Kedia

1 Q And you were in prison at the time; is that right?

2 A Yes.

3 Q And you were told that you were going to testify at a
4 trial; is that right?

5 A Yes.

6 Q And the three individuals what you were going to testify
7 against were Frank Guerra, Theodore Persico, Jr., and Michael
8 Persico? Did you understand that to be the case?

9 A Yes.

10 Q And as it turned out, it was Frank Guerra at the trial?

11 A Yes.

12 Q Not Theodore Persico, Jr. or Michael Persico; is that
13 right?

14 A No.

15 Q Now, before you testified at that trial, you gave the
16 government, you wrote the government a letter, a sort of wish
17 list about what Anthony Russo would like from the government;
18 is that right?

19 A I don't remember that wish list.

20 Q Let me show you what's been marked as 3500AR56.

21 Take a look at that.

22 THE COURT: Just take a look at that and let us know
23 if that refreshes your recollection as you're done reading it.

24 (Witness reviewing document.)

25 A I remember this, yes.

Russo - Cross - Kedia

1 Q Is that the document that you wrote, Mr. Russo?

2 A Yes.

3 Q And in that document -- that document are questions that
4 you wrote to the government?

5 A No, these are the questions I wrote to myself.

6 Q But to ask the government?

7 A Yeah. Concerns that I had.

8 Q Concerns that you had?

9 A Yeah. Yes.

10 Q And one of your concerns was you wanted to express to the
11 government how hard it was in jail; is that right?

12 A How hard it was on me and my family, yes.

13 Q And you wanted make sure you that you weren't taken out
14 of the location that you were in until it was time to testify
15 at trial; is that right?

16 A Yes, I think so, I'm not sure.

17 Q Is that right, Mr. Russo?

18 A Ask me that again, please.

19 Q You wanted to ensure that when you finished testifying
20 that you were returned back to Florida as soon as possible; is
21 that right?

22 A Yes.

23 Q Now, one of your other concerns is what the scope of your
24 cooperation was, right?

25 A Yes.

Russo - Cross - Kedia

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1 Q And whether the government would still be needing you
2 after you testified?

3 A Yes.

4 Q And what were you told, Mr. Russo?

5 A They told me you'll have to testify 'til you're off
6 parole.

7 Q Until you're off of parole, meaning your supervised
8 release?

9 A Right.

10 Q And so as long as you're on supervised release, you're
11 obligated to do --

12 A I'm obligated under my 5K1 --

13 THE COURT: Stop. Stop. Stop. You can't talk over
14 each other. Please let Ms. Sarita finish.

15 THE WITNESS: Sorry about that.

16 THE COURT: Ms. Kedia, I'm sorry. Finish the
17 question and then you can answer.

18 Can you finish the question, please.

19 MS. KEDIA: Yes, Your Honor.

20 Q When you say, Mr. Russo, when you're off parole, you're
21 referring to you were placed on supervised release; is that
22 right?

23 A Yes.

24 Q For a number of years?

25 A Yes.

Russo - Cross - Kedia

1 Q And the judge specifically made it a condition of your
2 supervised release, the government asked the judge to make it
3 a condition of your supervised release that you be required to
4 continue cooperating with them, right?

5 A I believe so, yes.

6 Q And, in fact, your cooperation agreement requires you to
7 continue cooperating with the government; is that right?

8 A Yes, I believe so; yes.

9 Q And you understand that if you violate your cooperation
10 agreement or your supervised release, that you can serve a
11 long prison term; is that right?

12 A Yes.

13 Q Now, Mr. Russo, it's fair to say that you've been
14 dishonest your entire life; is that right?

15 A No, that's not fair to say.

16 Q Well, you've been committing crimes since you were 15 or
17 16; is that right?

18 THE COURT: Asked and answered.

19 Q Would you say it's easy for you to lie, Mr. Russo?

20 A No, it's not easy.

21 Have I lied? Yes.

22 Q You told a lot of lies; is that right?

23 A I don't know what a lot is.

24 Have I lied? Yes.

25 Q Well, do you recall, Mr. Russo, at Frank Guerra's trial

1 being asked this question and giving this answer. AR53
2 page 481 and 482, Your Honor.

3 "Q Now, would it be fair to say, Mr. Russo,
4 that you've been telling lies virtually of day of your
5 entire life?

6 "A I told a lot of lies, yes."

7 Do you recall that?

8 A I don't remember that. If you say so. I don't remember
9 exactly what I said.

10 MS. KEDIA: I offer that portion of --

11 THE COURT: Excuse me?

12 MS. KEDIA: I offer that portion Mr. Russo's
13 testimony.

14 THE COURT: It's not an inconsistent statement to
15 the testimony that he just gave. Move on.

16 Q Mr. Russo, your entire life you've been lying whenever
17 you needed to lie; is that right?

18 A I've lied and told the truth when I needed to, yes.

19 Q Well, you've had parole hearings and you've had to report
20 to probation officers on any number of times over the last 25
21 years; is that right?

22 A I don't understand your question.

23 Q You were first arrested in 1986; is that right?

24 A Yes.

25 Q And you were last arrested in 2011; is that right?

1 A Yes.

2 Q And between that time you had been in courtrooms; is that
3 right?

4 A Yes.

5 Q You've been in front of judges; is that right?

6 A Yes.

7 Q You have met with parole officers and probation officers;
8 is that right?

9 A Yes.

10 Q You've been violating your conditions of release
11 throughout that entire time period; is that right?

12 A Yes.

13 Q And you certainly haven't reported that to your probation
14 officers, right, or your parole officers?

15 A That I was committing crimes?

16 Q Yes.

17 A No.

18 Q In fact, every time a parole officer discussed with you
19 what it was that Anthony Russo was doing during this period of
20 time, you certainly did not admit that you were committing
21 crimes; is that right?

22 A They never asked me if I was -- I never lied to them
23 because when you don't tell them everything, it's not a lie.

24 They just asked me how I'm doing on the street. Am
25 I working. That's it. So I never lied to them.

Russo - Cross - Kedia

1 Q You never lied to them.

2 A Never told them anything. Never asked.

3 Q So this entire time, from 1986 to 2011, you were never
4 questioned by a parole officer or a probation officer --

5 A If I was -- sorry if I was --

6 Q -- about whether you were following the law or committing
7 crimes?

8 A No.

9 Q Mr. Russo, do you recall having a parole hearing on
10 October 29th, 2000 -- I'm sorry October 29th, 1993?

11 A I don't remember, no.

12 Q Let me show you what's been marked as AR3.

13 You can look at the whole document, but I refer you
14 specifically to page 4 of that document.

15 THE COURT: It would you be helpful for the record
16 to indicate what this is.

17 MS. KEDIA: Yes, Your Honor.

18 May I see the front page, I will tell you the title
19 of this document, AR3.

20 It's inmate status report for parole board
21 appearance.

22 Q Mr. Russo, do you recall having a parole hearing on
23 October 29th, 1993?

24 A Yes.

25 Q And do you recall that that's nine days after Joseph

Russo - Cross - Kedia

1 Scopo's murder?

2 A Yes.

3 Q Now, when you were interviewed by your parole officer of
4 that parole board, did you tell them that you had just
5 committed a murder?

6 A Why would I do that?

7 THE COURT: Please don't argue with the attorney.
8 Either yes or no.

9 A No.

10 Q Did you tell them about any of the crimes that you had
11 been committing since you got out of jail?

12 A No, I did not.

13 Q Now, Mr. Russo, you want the judge to believe that you're
14 a changed person now, right?

15 A I am a changed person.

16 Q But do you recall telling Tommy McLaughlin, your friend
17 and associate, that you don't change, you just get older?

18 A I don't remember that.

19 Q Mr. Russo, if I could have you here --

20 THE COURT: You don't even have a time frame. Can
21 we have a time frame?

22 MS. KEDIA: Yes, Your Honor, I apologize.

23 Before I let you hear anything me ask you this:

24 Q Tommy McLaughlin is somebody that you were associating
25 with between mid-2009 until you got arrested in January of

Russo - Cross - Kedia

1 2011; is that right?

2 A Yes.

3 Q And do you remember saying to Mr. McLaughlin, on
4 August 8th of 2009:

5 I'm Anthony Russo, I don't change, I just get older.

6 A I don't remember that.

7 (Audio recording played.)

8 THE COURT: In the first place, okay, how about an
9 exhibit number telling me what this is? This is not in
10 evidence.

11 MS. KEDIA: I understand, Your Honor, I'm just
12 setting it up. I just wanted to make sure we have the audio
13 prepared.

14 Q Mr. Russo, I'm going to play you a clip of a recording
15 made by Mr. McLaughlin on August 8th, 2009 and see if that
16 refreshes your recollection as to what you told him,
17 Mr. McLaughlin?

18 THE COURT: Is there any objection by the government
19 to this?

20 MR. LIFSHITZ: Your Honor, we share the Court's
21 interest in having a marked exhibit of this so that we can...

22 THE COURT: You know, what did I just say? You had
23 better have these things marked.

24 MS. KEDIA: Yes, Your Honor.

25 THE COURT: And do you have transcripts of this?

Russo - Cross - Kedia

1 MS. KEDIA: I don't have a transcript of this
2 particular portion.

3 THE COURT: Well, I expect that you're going to have
4 to produce transcripts of any audio recordings.

5 MS. KEDIA: Yes, Your Honor.

6 THE COURT: You had plenty of time to prepare for
7 this hearing. You've got three attorneys on this -- four
8 attorneys on this case. This should have been done in
9 advance. Give me an exhibit number and I want a date and a
10 time of the conversation.

11 MS. KEDIA: Yes, Your Honor.

12 THE COURT: Okay, this is not a free for all. We
13 have to have some structure here so that there is a record.

14 MS. KEDIA: Yes, Your Honor.

15 I intend to provide all of the clips --

16 THE COURT: Do it now. Do it now.

17 MS. KEDIA: Yes, Your Honor.

18 THE COURT: Exhibit Number.

19 MS. KEDIA: I will mark it as Defendant's A.

20 THE COURT: And?

21 MS. KEDIA: It's a recording by Mr. McLaughlin,
22 between Mr. McLaughlin and Anthony Russo on August 8th, 2009.

23 THE COURT: Is there any objection to having this in
24 evidence?

25 MR. LIFSHITZ: No, Your Honor.

1 THE COURT: Then let's move it in evidence. It's
2 fine.

3 MS. KEDIA: Yes, Your Honor. Thank you. I move --
4 this clip.

5 THE COURT: It's done. It's moved in evidence.
6 (Defense Exhibit A, was received in evidence.)

7 MS. KEDIA: May we play this recording?

8 THE COURT: Yes.

9 (Audio recording played.)

10 Q Do you remember -- does that refresh your recollection
11 that you told Mr. McLaughlin --

12 THE COURT: I could barely make out what was said on
13 that recording.

14 Could you make out what was said in that recording?
15 I could not make out what was said in that recording.

16 MS. KEDIA: I apologize, Your Honor.

17 Do we have headphones for the witness?

18 THE COURT: We do.

19 You know, what part of preparation in advance is not
20 understood here?

21 MS. KEDIA: I apologize, Your Honor, I thought we
22 tested the system and I thought we could hear it well.

23 THE COURT: Well, I would like a set of headphones,
24 too. I don't know if anybody else understood what was said on
25 there.

Russo - Cross - Kedia

1 MR. LIFSHITZ: Your Honor, am I free to speak?

2 THE COURT: Yes.

3 MR. LIFSHITZ: We don't object to clips being played
4 for the witness. I assume at the end of this, the Court will
5 want post-hearing briefing to the extent there's additional
6 context on these tapes that we feel is appropriate.

7 THE COURT: You have an opportunity to redirect.

8 MR. LIFSHITZ: To redirect, yes, but I don't have
9 the entirety of every tape they're planning to playing and I
10 don't know what they're planning to play, so --

11 THE COURT: And that's why it's a problem of not
12 having an entire transcript in advance.

13 MS. KEDIA: Your Honor, let me explain, if I may.

14 These recordings are hours and hours and hours long
15 and they are hundreds and hundreds of them and that's why we
16 took specific clips. This is something that's -- this was a
17 fashion in which the government played them at the Guerra
18 trial as well. You know we need to --

19 THE COURT: I was not there for the Guerra trial.

20 MS. KEDIA: I understand, Your Honor, I didn't think
21 that this would be a problem to do it in this fashion. I
22 apologize to the Court.

23 THE WITNESS: Your Honor, this wasn't played at the
24 Guerra trial. I would remember that.

25 THE COURT: The witness says this wasn't played --

Russo - Cross - Kedia

1 MS. KEDIA: Not this particular clip.

2 THE WITNESS: You just said that.

3 THE COURT: Well, you know what, be careful what you
4 represent to the Court. And in any event, even if you were
5 planning to do an excerpt, you should have had a transcript of
6 the excerpt as well as a transcript of the entire
7 conversation.

8 MS. KEDIA: Yes, Your Honor.

9 THE COURT: I don't abide by sloppiness.

10 MS. KEDIA: And I certainly didn't intend to be
11 sloppy, Your Honor, I apologize.

12 THE COURT: Play it again.

13 (Audio recording played.)

14 Q Now, Mr. Russo, having heard that does that --

15 THE COURT: First of all, I don't know who was the
16 speaker.

17 Q Mr. Russo, were those -- was that you and Mr. McLaughlin
18 speaking to each other?

19 A I couldn't make it out if it was me. It sounded like me.

20 Q It sounded like you?

21 A I'm not a hundred percent sure. I never heard that tape.
22 Then, again, I didn't hear any of the tapes.

23 Q You didn't hear any of the tapes that Mr. McLaughlin and
24 Mr. Tagliavia made of you?

25 A No.

Russo - Cross - Kedia

1 Q Mr. Russo, you were sentenced on October 16th of 2013; is
2 that right?

3 A Yes, I was.

4 Q For all of your crimes, you were sentenced to 33 months
5 in prison, time served?

6 A Yes, I was.

7 Q And you were ordered to pay \$110,000 in forfeiture,
8 right?

9 A Yes, I was.

10 Q Now do you have a job?

11 A Yeah, but it's not a steady.

12 Q Have you had a job since you got out of prison in October
13 of 2013?

14 A Yes.

15 Q And was it the job that you represented to the judge that
16 was waiting for you when you got out of prison?

17 A No. No.

18 Q What happened to that job?

19 A Never came through.

20 Q Oh, so you represented to a judge that you had a job
21 waiting for you but you didn't actually have a job waiting?

22 A No, I did but it just didn't pan out.

23 Q Well, what does that mean?

24 A It didn't work out.

25 Q You found another job?

Russo - Cross - Kedia

1 A Yes, I did.

2 Q Do you make money?

3 A Yes, I do.

4 Q The judge ordered you to pay 25 percent of the income
5 that you earned during towards forfeiture; is that right?

6 A I believe so.

7 Q Have you paid a single dime in forfeiture?

8 A No.

9 Q Do you understand that the judge said that if there was a
10 failure to pay that you could be violated?

11 A I believe so.

12 Q Have you been violated?

13 A No.

14 Q Do you know if the government has submitted any kind of
15 violation letter to the judge?

16 A No, not that I know of; no.

17 Q Do you know if anyone has told the judge that you failed
18 to pay any -- even a single dime towards forfeiture?

19 A Well, I was told only a month ago if I don't start
20 paying, that my parole officer would put in paperwork.

21 Q Your parole officer told you that?

22 A Yes.

23 Q Did anyone from the government tell you that?

24 A No. Parole officer did tell me, not the government.

25 Q Mr. Russo, you're driving around in a \$75,000

Russo - Cross - Kedia

1 Mercedes-Benz; is that right?

2 A You're kidding me, right?

3 Q No.

4 THE COURT: Please don't argue with the attorney.

5 The answer is either yes or no.

6 A 75,000 Mercedes-Benz?

7 Q Yes.

8 A How about \$10,000?

9 Q Meaning your Mercedes-Benz is worth \$10,000; is that what
10 that means?

11 A Yes. It's 12 years old.

12 Q Where did you get the funds to purchase that vehicle?

13 A When I sold my house.

14 Q When you sold your house where?

15 A In Florida.

16 Q So you owned a home in Florida?

17 A No --

18 MR. LIFSHITZ: Your Honor --

19 A -- my girlfriend did.

20 THE COURT: Sustained.

21 Q Mr. Russo, how much money did you get from the sale of
22 your house?

23 A Between 12 and \$15,000.

24 Q And did you pay any of that towards forfeiture?

25 A No, because I had to find a new place to live, a car to

Russo - Cross - Kedia

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1 get back and forth to work, and by the time that happened, I
2 was broke.

3 Q Now, Mr. Russo, at the time that you decided to
4 cooperate, you certainly understood that the government wanted
5 evidence on Michael Persico; is that right?

6 A No, I didn't understand that; no.

7 Q You didn't understand that?

8 A They didn't come to me tell me I had to give stuff on
9 Michael.

10 Q Do you recall talking to Thomas McLaughlin on
11 January 21st of 2010 and explaining to them how you were in
12 prison with Frank Sparaco in 1999 or 2000 and that the agent
13 came to him and they told Sparaco that if he could tell them
14 something about Michael Persico they would have him out of
15 jail by the weekend?

16 A I don't remember that, no.

17 Q Let me show you what I'm making as Defendant's Exhibit B,
18 and BT, Your Honor.

19 B, will be the recording, and BT will be the
20 transcript of the recording.

21 THE COURT: Recording of what?

22 MS. KEDIA: A recording of a conversation between
23 Anthony Russo and Thomas McLaughlin on January 21st, 2010.

24 If I may hand this up to the Court.

25 THE COURT: Please hand it to my deputy. Don't

Russo - Cross - Kedia

1 approach the bench like that.

2 MS. KEDIA: Sure. No problem.

3 THE COURT: Is there any objection from the
4 government to introduce this into evidence?

5 MR. LIFSHITZ: Your Honor, again, we don't object to
6 introducing the portion. If we learn of its context that
7 matters --

8 THE COURT: Well, you have the opportunity to
9 introduce anything else that you want to introduce.

10 MR. LIFSHITZ: Thank you, Your Honor.

11 THE COURT: You can't expect not to be open to that.

12 MR. LIFSHITZ: Thank you. Then I will stop saying
13 that. And I certainly do not object to introducing this
14 exhibit.

15 THE COURT: Yes, you'll have the right to introduce
16 any evidence to rebut.

17 Q Mr. Russo, if I could have you listen to this portion of
18 the recording and look at the transcript while you do, please.

19 A Is that it?

20 Q January 21st, 2010?

21 (Playing audio.)

22 Q Mr. Russo, having heard that recording, does that refresh
23 your recollection about telling Thomas McLaughlin on
24 January 21st, of 2010 that Frank Sparaco had discussed with
25 you that agents came to see him and told him that if you can

Russo - Cross - Kedia

1 get anything out of Russo, or you can tell us about Michael,
2 we'll have you out of here by the weekend?

3 A Yes.

4 Q And you even told Thomas McLaughlin, in a subsequent
5 conversation on May 12th, 2010, that agents asked Teddy
6 Michael Persico, Michael's cousin, to flip; is that right?

7 A That's what I was told by his brother Carmine.

8 Q You were told by Teddy's brother, Carmine?

9 A Carmine Persico, yes.

10 Q That agents asked Teddy to flip against his cousin,
11 Michael; is that right?

12 A That's what I was told, yes.

13 Q You do recall that?

14 THE COURT: You know, that's at least double hearsay
15 in connection with, you know, these are not coconspirator
16 statements.

17 MS. KEDIA: I understand, Your Honor.

18 THE COURT: Stricken. It's stricken.

19 MR. FERNICH: Judge, we would object to that.

20 THE COURT: Your objection is noted for the record
21 and it's stricken.

22 MR. FERNICH: It's not offered for the truth of the
23 matter asserted, it's offered for his state of mind and it's
24 bias and motive, it's non-hearsay.

25 THE COURT: It's stricken. Move on.

Russo - Cross - Kedia

1 Q Mr. Russo, in any event, you understood certainly by the
2 time you cooperated in 2011, that the agent wanted information
3 on Michael Persico; is that fair to say?

4 MR. LIFSHITZ: Objection. Asked and answered.

5 THE COURT: I will allow him to answer the question.
6 Was that your understanding?

7 THE WITNESS: Yes.

8 THE COURT: At some point?

9 THE WITNESS: Yes, at some point; yes.

10 Q Now, you were in jail with Teddy Persico, Jr. in the
11 '80s; is that right?

12 A Yes.

13 Q You spent about -- a little less than a year in jail with
14 him from mid-1988 to mid-1989; is that right?

15 A Yes.

16 Q And when you got out of jail, that was several years
17 later, 1992; is that right?

18 A Yes.

19 Q So the three years between 1989 and 1992, you were in a
20 different jail with this Teddy Persico, Jr.; is that right?

21 A Yes.

22 (Continued on next page.)

23

24

25

RUSSO - CROSS - KEDIA

1 CROSS EXAMINATION

2 BY MS. KEDIA:

3 Q And you got out on August 26, 1992. You got into a
4 halfway house; is that right?

5 A Yes.

6 Q You began reporting at Edgecombe?

7 A Yes.

8 Q That's a halfway house, Edgecombe?

9 A Work facility, yes. Work release facility, yes.

10 Q And when you say a "work release facility," that means
11 you went out and worked during the day and then you had to
12 report back there at night?

13 A Yes.

14 Q Now, you said you met Teddy, Senior, Teddy Persico,
15 Junior's father, on the same day that you got out of prison;
16 is that right?

17 A Yes.

18 Q And did you know at that time what Teddy, Senior's
19 position was in the Colombo family?

20 A Yes.

21 Q How did you know?

22 A I was with Danny and he was telling me.

23 Q When were you with Danny?

24 A That day. Him and Toots.

25 Q Who is Toots?

RUSSO - CROSS - KEDIA

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1 A Toots is a friend of ours. He passed away.

2 Q So the day -- when you say that day, you mean the day you
3 got out of jail?

4 A The day, yes.

5 Q In 1992, in August of 1992?

6 A Yes.

7 Q And when you got out you went to see Danny Persico?

8 A Danny came and picked me up at my house, yes.

9 Q And he told you what his father's position was?

10 A His father wanted to speak to me, yeah.

11 Q Now, you hung out a lot at a candy store on 11th Avenue;
12 is that right?

13 A Yes.

14 Q And you hung out with Uncle Teddy you called him; is that
15 right?

16 A Yes.

17 Q Frank Sparaco?

18 A Yes.

19 Q Frank Guerra, you called him BF; is that right?

20 A Yes.

21 Q Bobby Tarantola?

22 A Yes.

23 Q Anthony Ferrara?

24 A Yes.

25 Q All of you hung out at this candy store together?

RUSSO - CROSS - KEDIA

1 A Yeah.

2 Q Who owned that candy store?

3 A I don't know.

4 Q Do you recall meeting Frank Sparaco?

5 A Yes.

6 Q And when did you meet him?

7 A I don't recall. Sometime when I got out in the first few
8 days.

9 Q In 1992 after you got out of jail?

10 A Yes.

11 Q You'd never met him before?

12 A No.

13 Q Now, did you begin committing crimes with Mr. Sparaco
14 immediately?

15 A No.

16 Q Who is Frank Sparaco?

17 A From what I understood when I first met him, he was
18 Michael's dear friend.

19 Q And Mr. Sparaco?

20 THE COURT: I'm sorry. He was Michael's...

21 THE WITNESS: Dear friend. One of his closest
22 friends.

23 Q When did you meet Michael?

24 A Same time.

25 Q Around the same time in the --

RUSSO - CROSS - KEDIA

1 A Yeah.

2 Q -- in the days after getting out of jail?

3 A Yes.

4 Q And where did you meet him?

5 A I don't remember. It was around on the avenue there
6 somewhere.

7 Q When you say "on the avenue" --

8 A Right across the street near Romantique, the candy store.
9 Somewhere over there. I don't remember exactly.

10 Q Romantique is a car service business; is that right?

11 A Limousine service, yes.

12 Q Now, Mr. Sparaco, did there come a point in time very
13 soon after you got out of jail that Mr. Sparaco asked you to
14 be involved in a murder? Do you remember that?

15 A He asked me to help him with something.

16 Q Did he tell you what that something was?

17 A Well, I kind of figured knowing who Frankie was and what
18 he's about, so I went and told Danny about it.

19 Q Did you agree to be involved in something with Frank
20 Sparaco?

21 A Yes, I told him I would help him.

22 THE COURT: Ms. Kedia, can I just bother you for the
23 spelling, the last name of Sparaco. Can you spell that for
24 us, please.

25 MS. KEDIA: Yes, Your Honor, S-p-a-r-a-c-o.

RUSSO - CROSS - KEDIA

1 THE COURT: Thank you.

2 Q And you understood that Mr. Sparaco was asking you to be
3 involved in a murder; is that right?

4 A Yes.

5 Q Now, did you tell Mr. Sparaco you had committed other
6 murders in the past?

7 A No, I don't believe so.

8 Q Well, do you understand why he asked you, Anthony Russo,
9 someone he had just met, to be involved in a murder?

10 A I have no clue.

11 Q And yet you agreed to do it?

12 A Yes.

13 Q Now, you met another person around that same timeframe
14 when you first got out of jail by the name of Eric Curcio; is
15 that right?

16 A Yes, I did.

17 Q And where did you meet Eric Curcio?

18 THE COURT: Again, could we just have the timeframe,
19 please.

20 Q In 1992, shortly after you got out of jail in August of
21 1992; is that right?

22 A Around there, yeah.

23 Q And how did you meet Mr. Curcio?

24 A On the avenue. Near the candy store, I believe.

25 Q The same candy store --

RUSSO - CROSS - KEDIA

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1 A Yes.

2 Q -- that you hung out with Frank Sparaco?

3 A Yes.

4 Q And did Frank Sparaco introduce you to Eric Curcio?

5 A I don't remember who introduced me to him.

6 Q Do you recall telling the government that Frank Sparaco
7 introduced you to Eric Curcio?

8 A I don't recall who introduced me to him. It might have
9 been Frankie. I don't know. I don't remember.

10 Q And you began committing crimes with Eric Curcio soon
11 thereafter, right?

12 A Yes.

13 Q You started dealing cocaine?

14 A Yes.

15 Q You started selling credit cards?

16 A Yes.

17 Q What does that mean, you started selling credit cards?

18 A We were selling active credit cards for 20 percent of
19 what they were worth.

20 Q So meaning they were stolen credit cards?

21 A Stolen credit cards, yes.

22 Q You stole them from people and then you --

23 A No, we didn't steal the credit card.

24 Q -- sold them to other people?

25 A I didn't steal them from nobody.

RUSSO - CROSS - KEDIA

1 Q Somebody else stole them?

2 A So Eric had them and he would give them to me and I would
3 sell them for 20 percent.

4 Q And how did you get involved with that with Eric?

5 A He just came to me.

6 Q Eric Curcio just came to you?

7 A Yes.

8 Q And asked you to help sell cocaine?

9 A Well, that's what we do on the street. We're criminals.
10 We hang out together and we do bad things.

11 Q Did you meet Eric Curcio before you were in jail in
12 between 1988 and 1992?

13 A No, I don't believe so. No.

14 Q So this is as soon as you came out he started committing
15 crimes with you?

16 A Yeah. Yes.

17 Q Did you meet a guy by the name of Dino Basciano?

18 A I know who he is. I don't remember actually meeting him.

19 Q Who is he?

20 A He's an associate of the Luccheses.

21 Q Was he very close to Eric Curcio?

22 A I believe so.

23 Q And he was someone Eric Curcio also dealt cocaine with;
24 is that right?

25 A I don't know what they did together.

RUSSO - CROSS - KEDIA

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1 Q You know he was a major gun dealer?

2 A No. I didn't know that, no.

3 Q Now, Eric Curcio had a group that was around him a lot;
4 is that right?

5 A Yes.

6 Q Who did they consist of?

7 A Johnny Sparacino, Johnny Pappa, Sal Sparacino. I don't
8 know who else. There was a lot of kids from downtown that
9 stood around.

10 Q Joe Monte, Junior?

11 A Yes, he was another one.

12 Q John Miccio, is that somebody?

13 A Joe Miccio?

14 Q Joe Miccio?

15 A I don't know. I don't know if he hung around him.

16 Q You know who he is?

17 A I heard of him, yeah.

18 Q Not someone you hung around with a lot?

19 A No.

20 Q Now, did Curcio know Frank Guerra or Bobby Tarantola?

21 A I'm sure they did, yes.

22 Q He knew them before he knew you; is that right?

23 A Oh, yes. A hundred percent, yeah.

24 Q Had you told -- did you ever tell Eric Curcio that you
25 were involved in murders?

RUSSO - CROSS - KEDIA

1 A I don't remember that.

2 Q Did you ever discuss with Eric Curcio other crimes that
3 you had committed?

4 A I don't remember what I talked about with Eric.

5 Q Now, how did you meet Johnny Pappa? You met Johnny
6 Pappa; is that right?

7 A Yes.

8 Q How did you meet him?

9 A Through Eric.

10 Q When?

11 A Sometime in '92.

12 Q Sometimes in 1992. Soon after you got out?

13 A Maybe early '93. I don't remember exactly. It's a long
14 time ago.

15 Q Well, this is someone you committed a murder with, right?

16 A Yes.

17 Q And certainly at the time that you committed a murder
18 with him, you knew him pretty well?

19 A Excuse me?

20 Q At the time that you committed a murder with him, you
21 knew him pretty well; is that right?

22 A As you're on to, yeah.

23 Q Is that a yes?

24 A I said yes.

25 Q What about John Sparacino?

RUSSO - CROSS - KEDIA

1 A What about him?

2 Q Do you know who John Sparacino is?

3 A Yes.

4 Q When did you meet him?

5 A I met them all around the same time.

6 Q Soon after you got out of jail in 1992; is that right?

7 A Yes.

8 Q Now, when you got out of jail you learned things about
9 what you called was a family feud; is that right?

10 MR. LIFSHITZ: Objection to the --

11 Q An internal war?

12 THE COURT: Sustained as to form.

13 Q Mr. Russo, did you learn about something when you were
14 released from jail that you called an internal war, a family
15 war?

16 A Yeah. Yes.

17 Q And you testified that there was the Persico side and the
18 Orena side; is that right?

19 A Yes.

20 Q And you testified that Chuckie Russo, JoJo Russo, Uncle
21 Teddy, Joe Monte and Tommy Gioeli were people who were in the
22 street at the time that you were released who were on the
23 Persico side; is that right?

24 A Yes.

25 Q Now who is Tommy Gioeli?

RUSSO - CROSS - KEDIA

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1 A I don't know him. I met him when I came home, Tommy, but
2 he was a made member of the Colombo crime family when I met
3 him.

4 Q And he's someone you also met when you came home in 1992?

5 A I believe I met him once, yeah. Maybe twice.

6 Q Now, there were also leaders on the Orena side of this
7 war; is that right?

8 A Yes.

9 Q In fact, three quarters of the family was on the Orena
10 side of the war; is that right?

11 A Most of them were on that side, yes.

12 Q And you had heard about this war from the news and from
13 Frank Guerra and from hanging around in the candy store and
14 the bagel store in the neighborhood; is that right?

15 A Yes.

16 Q And you discussed the war a lot with Frank Guerra and
17 Bobby Tarantola and Frank Sparaco; is that right?

18 A Yes, I did. Danny Persico too.

19 Q And Danny Persico too?

20 A Yep. Eric, everybody.

21 Q And Frank Guerra told you about things that had happened
22 to him, about people laying on him, about how he almost got
23 killed; is that right?

24 A Yes.

25 Q And you heard stories about everybody hiding out in safe

RUSSO - CROSS - KEDIA

1 houses during the war and carrying guns?

2 THE COURT: Are we going somewhere with this?

3 MS. KEDIA: Yes, Your Honor.

4 THE COURT: Well, get there.

5 Q Did you hear about --

6 THE COURT: There's no jury here.

7 MS. KEDIA: I understand, Your Honor.

8 THE COURT: So get to the point.

9 THE WITNESS: Excuse me.

10 Q You heard about safe houses and everybody carrying guns;
11 is that right?

12 A Heard about it and seen it.

13 Q You heard about it and you saw it?

14 A Everybody is carrying guns when I came home.

15 Q Now, did you hear about people, these people Joey Fusco,
16 do you know who he is?

17 A Joey Fusco?

18 Q A guy Goo?

19 A Yes, Sally's brother.

20 Q Sally's brother. Who's Sally?

21 A Sally Fusco's brother.

22 Q And, Nicki Tormenia, do you know who he is?

23 A Nicki Tormenia.

24 Q Who is he?

25 A He was a friend of ours.

RUSSO - CROSS - KEDIA

1 Q An associate --

2 A Associate.

3 Q -- on the Persico side?

4 A He was an associate of Teddy, yeah, Teddy, Junior.

5 Q And Eddie Garafolo?

6 A Same thing, yes.

7 Q An associate of Teddy, Junior?

8 A Yes.

9 Q And Angelo Fifi, who is he?

10 A Yes.

11 Q Same thing meaning --

12 A Yes.

13 Q -- associate of Teddy, Junior?

14 Big Stevie?

15 A Big Stevie.

16 THE COURT: Where are we going with this?

17 MS. KEDIA: Your Honor, I want to clarify that

18 these are people who are associates, Mr. Russo's understanding

19 that these are people who are associates of the Colombo family

20 on the Persico side of this war, Your Honor.

21 THE COURT: Let's get to the point.

22 Q Is that correct?

23 A I don't know who Big Stevie is.

24 Q Now, you testified that you --

25 THE COURT: No. We're not trying this whole case

RUSSO - CROSS - KEDIA

1 all over again. We're here for limited purposes concerning
2 certain relevant conduct that the defendant doesn't want the
3 Court to take into consideration. So I really would
4 appreciate you getting to the point.

5 MS. KEDIA: Yes, Your Honor.

6 Q Mr. Russo, you testified you became involved in this war
7 the minute that you got home in 1992; is that right?

8 A The minute I got home?

9 Q Yes.

10 A Yeah, I believe so.

11 Q What did you do?

12 A Just hanging around I was involved. Just being there my
13 life was in danger.

14 Q Mr. Russo, weren't you told that there was -- the war was
15 at a standstill when you got home?

16 A Ceasefire, yeah.

17 Q I'm sorry?

18 A A ceasefire like I heard.

19 Q A ceasefire? What is a ceasefire?

20 A Supposedly.

21 A ceasefire means nobody is shooting right now.
22 That everything is being calmed. Trying to work things out.
23 That's what I took it as.

24 Q And that's what you understood when you got out?

25 A That's what, yes.

RUSSO - CROSS - KEDIA

1 Q And do you know the reason for the ceasefire?

2 A No, I don't.

3 Q Did you know that a lot of people from both sides had
4 been arrested from the Persico side and the Orena side?

5 A Yes. And a lot of people were killed too. Yes.

6 Q And you testified that at stake during this war was Vic
7 Orena was trying to take over the family; is that right?

8 A Yes.

9 Q Now, did you know that when you got out of prison in
10 August of 1992 Vic Orena had been arrested and he was awaiting
11 trial?

12 A Was he arrested when I came home?

13 Q Yes.

14 A I believe he was still out. He got arrested after I came
15 home.

16 Q Did you know that he was convicted at trial in December
17 of 1992 and received a life sentence?

18 A Yes.

19 Q Now, between the time you got out when you say your life
20 was in danger, were you ever shot at?

21 A No. I don't believe so, no.

22 THE COURT: When?

23 Q When you came home in 1992, from the moment that you came
24 home in 1992 and in the year that followed up until the time
25 that you killed Joe Scopo in October of 1993, were you ever

RUSSO - CROSS - KEDIA

1 shot at?

2 A Yes.

3 Q By whom?

4 A I don't know who shot at me, no. I just don't know. The
5 night of the murder of Joey Scopo.

6 Q On the night of the murder?

7 A Yes.

8 Q But before the night of the murder?

9 A No.

10 Q Between --

11 A I don't -- no.

12 Q -- August of 1992 and the night of the murder?

13 A Not that I remember. No.

14 Q Now, you testified that when you first became involved in
15 the war the first thing that you did was you planned to murder
16 Bill Cuotolo; is that right?

17 A Yeah, I believe so.

18 Q You called him Wild Bill; is that right?

19 A Yes.

20 Q And do you recall when this was, approximately?

21 A I'm going to say early '93.

22 Q And how is it that you came about planning to kill Bill
23 Cuotolo?

24 A I don't remember how I came about it.

25 Q Well, you said you planned to kill him with Eric Curcio,

RUSSO - CROSS - KEDIA

1 Frank Guerra, Bobby Tarantola, Danny Persico and Anthony
2 Ferrara; is that right?

3 A Well, you asked me how it came about. I'm not sure how
4 it came about, but I do know we did try to kill him.

5 Q Did Eric Curcio ask you to get involved in this?

6 A I don't remember.

7 Q This is before you ever went after Joe Scopo; is that
8 right?

9 A Yes.

10 Q Now, where were these attempts on Bill Cuotolo?

11 A Where he used to get his hair cut on 20th Avenue, 86th
12 Street.

13 Q And what you did do in preparation for this?

14 A We laid back about a block and a half with shooters in
15 one car and a crash car. Guys in another car, a crash car.

16 Q I'm sorry?

17 A We did it specifically on a Wednesday. We believe it was
18 a Wednesday.

19 Q Why do you believe it was a Wednesday?

20 A Because that's when Billy used to get his hair cut. It
21 was either a Wednesday or Thursday.

22 Q So you would go by this location where he would get his
23 hair cut?

24 A Yes, at a certain time.

25 Q Was it always the same people going by?

RUSSO - CROSS - KEDIA

1 A Yes.

2 Q And how many people?

3 A Four or five of us.

4 Q Who were the people?

5 A Me, Bobby, BF, Little Anthony, Eric.

6 Q Johnny Pappa?

7 A No. He wasn't there in the beginning.

8 Q Mr. Russo, when you say "in the beginning," was he
9 involved in attempts on Bill Cuotolo?

10 A He wasn't involved in the beginning.

11 Q Was he involved in attempts to murder Bill Cuotolo?

12 A Yeah, he got involved. Yes.

13 Q When did he get involved?

14 A Shortly after we started looking for Billy.

15 Q And so he was one of the people who was also part of this
16 crew in crash cars or regular cars; is that right?

17 A Yes.

18 Q How many cars did you take out when you went to look for
19 Bill Cuotolo?

20 A I don't remember. Two. I don't remember. Had to be at
21 least two.

22 Q And whose cars were they?

23 A I don't remember.

24 Q Did you steal cars?

25 A I don't remember.

RUSSO - CROSS - KEDIA

1 Q Were you in cars with multiple people?

2 A Yes.

3 Q When you say that there were crash cars, how many crash
4 cars were there?

5 A I don't remember.

6 Q What is a crash car?

7 A It's a car that protects the guys that are going to do
8 the piece of work so nobody intervenes.

9 Q Did you also look for Bill Cuotolo at his house?

10 A Yes.

11 Q Where was his house?

12 A 40 something street. Canarsie. I don't remember
13 exactly.

14 Q And you described an incident where Johnny Pappa was with
15 you and you --

16 A With me and Frankie, yes.

17 Sorry I cut you off.

18 Q And Frankie meaning BF?

19 A Yes.

20 Q And you went by Bill Cuotolo's house and you were looking
21 to kill him; is that right?

22 A Yes.

23 Q And you all had guns that day, right?

24 A I know me and John had guns, yes.

25 Q What kind of guns did you have?

RUSSO - CROSS - KEDIA

1 A I had a .38 on me and John had the Mack ten.

2 Q John had the MAC-10?

3 A Yeah.

4 Q So what is the MAC-10?

5 A Machine gun.

6 Q Where did he get it?

7 A Where did he get it from?

8 Q Yes.

9 A From me.

10 Q He got it from you?

11 A Yes.

12 Q Where did you get it?

13 THE COURT: Excuse me.

14 Ms. Kedia, the issue here is the murder of
15 Scopolio -- of Scopo, excuse me, and other relevant conduct for
16 the Court to consider as described in the presentence report,
17 loansharking, sale of stolen or some incident involving stolen
18 videos and so on. So I don't know why we're going into so
19 much detail about other incidents that do not address this
20 relevant conduct.

21 It seems to me that if you direct your cross
22 examination to what was discussed on direct, that you can
23 accomplish the same thing.

24 MS. KEDIA: I understand, Your Honor.

25 This was specifically discussed on direct, and I

RUSSO - CROSS - KEDIA

1 would explain what I'm getting at, but I would not -- I would
2 ask that I not explain it in front of the witness.

3 THE COURT: Well, we're not doing a mini trial here.

4 MS. KEDIA: I understand, Your Honor.

5 THE COURT: You're not understanding because I've
6 said this now ten times this morning in the span of an hour
7 and 20 minutes. So can you move it on, please.

8 MS. KEDIA: I will, Your Honor.

9 Q Mr. Russo, you started looking for Bill Cuotolo before
10 you ever started looking for Joe Scopo; is that right?

11 A Yes.

12 Q And you attempted to kill Bill Cuotolo before you ever
13 started looking for Joe Scopo; is that right?

14 A Yes.

15 Q And on these occasions you and other people had weapons;
16 is that right?

17 A Yes.

18 Q And there were any number of people with you who were
19 armed and had various cars that they were using on these hunts
20 to kill Bill Cuotolo; is that right?

21 A Yes.

22 Q Now, you next decided after going after Bill Cuotolo --
23 you ever never able to get Bill Cuotolo, is that what
24 happened?

25 A No.

RUSSO - CROSS - KEDIA

1 Q And why is that?

2 A Because we never got him.

3 Q Because you couldn't locate him or you just --

4 A Because the --

5 Q -- or you never had the opportunity?

6 A The situation just didn't work out.

7 Q You knew where he was, at his home and at the barber
8 shop, right?

9 A Yeah.

10 Q Now, when you started going after Scopo, do you recall
11 when that was?

12 A Sometime in '93.

13 Q How long had you been trying to get Bill Cuotolo at that
14 time?

15 A I don't remember.

16 Q Well, do you remember if it was weeks or months?

17 A I don't remember.

18 Q When did you start looking for Joe Scopo in '93?

19 A I can't give you an exact date. It was sometime in '93.

20 Q You don't recall if it was the middle of the year or the
21 beginning of the year, the end of the year?

22 A No, I don't.

23 Q And did you look for him on multiple occasions?

24 A Yes, we did.

25 Q And, in fact, Curcio, Eric Curcio, is the one who found

RUSSO - CROSS - KEDIA

1 out where Joe Scopo was living; is that right?

2 A Yes.

3 Q And where was he living?

4 A First he was in Canarsie and then he moved to Queens.

5 Q And Joe Scopo is someone that you tried to kill when he
6 was living in Canarsie; is that right?

7 A Yes.

8 Q You described an incident, a time when you went by his
9 house and his head was in a garbage can; is that right?

10 A Yes.

11 Q Now, describe this incident.

12 Were you in a car with -- who were you in a car
13 with, let me ask you that?

14 THE COURT: What incident?

15 MS. KEDIA: Mr. Russo testified on direct
16 examination about an attempt on Joe Scopo's life when he was
17 living in a house in Canarsie so I'm asking --

18 THE COURT: Are you talking about the day that his
19 head was in the garbage?

20 MS. KEDIA: Yes, I am.

21 THE COURT: Okay. That was a very simple statement.
22 Do you see how easy that was. Thank you.

23 Q Mr. Russo, do you recall testifying about this incident
24 when you --

25 A Yes.

RUSSO - CROSS - KEDIA

1 Q Now, who was with you that day?

2 A Me and BF and I believe John was in the car with us. I
3 think Eric and Anthony Ferrara were together in crash cars.
4 They had their own cars.

5 Q Who had their own cars?

6 A Eric and Anthony.

7 Q They each had their own car?

8 A I believe so, yes.

9 Q And you and Guerra were together?

10 A Yes. Me, Guerra and Johnny Pappa.

11 Q And Johnny Pappa.

12 And you were all in one car together?

13 A Yes, I believe so. I think Johnny was with Eric and then
14 he jumped out of the car and came with me and BF.

15 Q What car were you in?

16 A Ah, I was in Frankie's truck, his jeep. His father's
17 jeep.

18 Q And were you going to be a shooter that day?

19 A Well, I had a pistol on me. Yes.

20 Q Well, did you have a plan on --

21 A Yes, we had a plan.

22 Q -- that you were going to --

23 A And we were going to go out and get him, yes, me and
24 John.

25 Q You and John --

RUSSO - CROSS - KEDIA

1 A Pappa.

2 Q You and John Pappa were going to be the shooters?

3 A Yes.

4 Q And as you drove around Mr. Scopo's house, explain what
5 happened?

6 A We were looking for a nice place to park.

7 Q A nice place to park?

8 A A nice place to park so we could lay on him, yes. And we
9 went around the block and when we started pulling up to park
10 the car we seen a guy in the garbage can when we went around
11 the block. When we came back, he was walking up the stairs.

12 Q Where was this garbage can, in front of his house?

13 A Right in front of his house, yes.

14 Q Right in front of his house?

15 A Yes.

16 Q And you just couldn't make out who it was?

17 A No.

18 Q And when you went around the block, meaning behind the
19 his house or around --

20 A He was up on his porch going in his front door already.
21 Yes.

22 Q And going up the stairs and going into his front door?

23 A Yes.

24 Q And you have a vivid recollection of this?

25 A Vivid, as best as I can recall, yes.

RUSSO - CROSS - KEDIA

1 Q Now, do you recall where this house was?

2 A No, not exactly. No.

3 Q No?

4 A No.

5 Q When you started cooperating and you told the agents
6 stories about looking for Joe Scopo, you went on drive-arounds
7 with them, right, with the agents?

8 A Did I go on drive -- one time, yeah.

9 THE COURT: At what time frame?

10 Q Yes. Mr. Russo, after you started cooperating --

11 A Yes.

12 Q -- in 2011, you had told the agents about various
13 attempts on Bill Cuotolo and on Joe Scopo; is that right?

14 A Yes.

15 Q And did you go on drive-arounds with agents at some
16 point?

17 A Yes.

18 Q Did you show them where Joe Scopo's house was?

19 A In Queens, yes.

20 Q Did you show them where Joe Scopo's house was in
21 Brooklyn?

22 A No.

23 Q Why not?

24 A Because they didn't ask. And I don't recall.

25 Q You showed them where Joe Scopo's club was; is that

RUSSO - CROSS - KEDIA

1 right?

2 A Yes.

3 Q Now, Mr. Russo, you testified about getting guns for the
4 Scopo murder, right?

5 A Yes.

6 Q When did you get these guns?

7 A Exactly when I got them? I can't give you a date and
8 time.

9 Q Approximately?

10 A Mid '93. February, March, April, like that.

11 Q You'd been going after Cuotolo for a while at this point,
12 right?

13 A Yes.

14 Q Now you decided to focus on Joe Scopo; is that right?

15 A Yes.

16 Q And at some point while you're focusing on Joe Scopo you
17 get guns; is that right?

18 A We get more guns, yes.

19 Q You get more guns?

20 A Yeah.

21 Q So you had guns already?

22 A We had a couple guns, yeah.

23 Q Guerra was involved in the war for a number of years and
24 had a number of guns, right?

25 A Excuse me?

RUSSO - CROSS - KEDIA

1 Q Frank Guerra was involved in the war for a number of
2 years and had a number of guns; is that right?

3 A Frank Guerra didn't have no guns.

4 Q He didn't have no guns?

5 A He didn't have no guns when I was with him.

6 Q Bobby Tarantola had guns?

7 A I don't know. He might have.

8 Q Anthony Ferrara?

9 A I don't know.

10 Q Well, who had guns? You said you had a bunch of guns.

11 A When we showed up, we had guns for the Billy thing and I
12 don't remember exactly who had the guns. I'm sorry.

13 Q Who is "we"? You did?

14 A I had a gun, yeah.

15 Q John Pappa did?

16 A Yes.

17 Q John Sparacino did?

18 A John Sparacino wasn't with us when we went looking for
19 Billy.

20 Q What about Eric Curcio?

21 A I don't believe he had a gun on him. No, he was just a
22 crash car driver.

23 Q Eric Curcio was always going to be a crash car driver?

24 A Yes.

25 Q How was it decided, Mr. Russo, who was going to be a

RUSSO - CROSS - KEDIA

1 shooter and who was going to be a crash car driver?

2 MR. LIFSHITZ: Can we just clarify for which plot
3 this was?

4 THE COURT: Yes.

5 MS. KEDIA: Yes.

6 Q Let's start with Cuotolo.

7 A I don't remember.

8 THE COURT: Again with the Cuotolo. Can we just
9 stick to the Scopo.

10 MS. KEDIA: Yes, Your Honor.

11 Q With respect to Joe Scopo?

12 A We decided that Johnny Sparacino and Johnny Pappa would
13 do the shooting. I was the driver and I had a gun on me also
14 just in case.

15 Q You had a gun on you when you -- you're talking about the
16 day you shot Scopo?

17 A Yes.

18 Q The day you shot and killed him?

19 A Yeah, I had a gun in the car.

20 Q Well, Mr. Russo, do you recall testifying at Frank
21 Guerra's trial that you didn't have a gun on you?

22 A No, I don't.

23 MS. KEDIA: Give me one moment, Your Honor.

24 Q Mr. Russo, do you recall being asked this question and
25 giving this answer? It's AR 63, page 704.

RUSSO - CROSS - KEDIA

1 THE COURT: You mean 3500 AR.

2 MS. KEDIA: AR 63.

3 THE COURT: 63. I'm sorry, what was the page?

4 MS. KEDIA: Page 704.

5 And I'll start actually on page 703 at the bottom,
6 Your Honor.

7 Q Question: Okay -- line 23. And who was in your car?

8 Answer: Me, Johnny Pappa and John Sparacino.

9 Question: And who was driving? Who was the
10 passenger? Who was rear passenger?

11 Answer: I was driving, Johnny Pappa was in the
12 front passenger, and Johnny Sparacino is behind me.

13 Question: And who had guns?

14 Answer: Johnny Pap and Johnny Sparacino.

15 Question: What were the guns that they had?

16 Answer: Johnny Sparacino had the MAC-10, and I
17 don't know exactly what Johnny -- he had a pistol on him. I
18 know that. I don't know what caliber.

19 Question: And for those of us who don't know what a
20 MAC-10 is, what is a MAC-10?

21 Answer: It's a machine gun.

22 Question: And you loaded that with 30 rounds?

23 Answer: Yes, I did.

24 Question: Did you have a gun?

25 Answer: No, I don't believe I did. No.

RUSSO - CROSS - KEDIA

1 Question: You don't remember if you had a gun?

2 Answer: I didn't have a gun, no.

3 Question: Would you go out on a hit and not have a
4 gun?

5 Answer: I didn't have a gun. I was the driver.

6 Do you remember being asked those questions and
7 giving those answers.

8 A Yes, I do.

9 Q Are you telling the truth today or were you telling the
10 truth at that time when you testified at the Frank Guerra
11 trial?

12 MR. LIFSHITZ: Objection.

13 MS. KEDIA: I'm sorry. I didn't hear the answer.

14 THE COURT: Sustained as to form.

15 Can you rephrase your question, please.

16 MS. KEDIA: Yes, Your Honor.

17 Q Were you lying when you testified at the Frank Guerra
18 trial --

19 A No, I wasn't.

20 Q -- about carrying a gun?

21 A No, I wasn't. Maybe I made a mistake. I don't remember.

22 Q When did you make a mistake?

23 A About the gun.

24 Q When did you make a mistake, at that time or now?

25 A I don't remember. You know what, I'm so confused right

RUSSO - CROSS - KEDIA

1 now. Going over the same thing over and over and over.

2 Q You've gone over and over and over it many, many, many,
3 many times with the government; is that right?

4 MR. LIFSHITZ: Objection to "it".

5 THE COURT: Yes. Sustained as to form.

6 Q Mr. Russo, you've gone over your stories about attempts
7 on Joe Scopo and the actual hit on Joe Scopo on any number of
8 occasions with the government; is that right?

9 A I'm sure I did, yeah.

10 Q Do you remember the things that you told them or you
11 don't?

12 A Do I remember?

13 Q Yes.

14 A I can't --

15 THE COURT: Sustained as to form. That's a very
16 vague question.

17 As you sit here right now, do you remember whether
18 or not you had a gun? This was the first incident, correct?

19 MS. KEDIA: This is the night of the murder, Your
20 Honor.

21 THE COURT: The night of the murder.

22 THE WITNESS: I don't remember.

23 THE COURT: Okay. Move on.

24 Q Now, Mr. Russo, you -- on the night of the murder, you
25 were in a stolen vehicle; is that right?

RUSSO - CROSS - KEDIA

1 A Yes.

2 Q And you testified that you thought it was a Chevy; is
3 that right?

4 A I testified I believe that I don't remember what it was.
5 I know it was a brown four door.

6 Q Well, when you testified in this courtroom on direct
7 examination just a short time ago, you testified that you
8 thought it was a brown Chevy; is that right?

9 A If that's what I said, yes, then.

10 Q Well, do you remember saying that, Mr. Russo?

11 A Listen, I -- Your Honor, I got to say something.

12 THE COURT: Okay. Please, no arguing. Do you
13 remember?

14 THE WITNESS: I got a lot of things on my mind. I
15 just lost my son and that's not really --

16 THE COURT: I'm sorry. When did that happen?

17 THE WITNESS: June 29th. And I'm starting to like
18 get aggravated right now.

19 THE COURT: Okay. Just --

20 THE WITNESS: I got a lot of things on my mind.

21 THE COURT: Okay. You need to step back. Just
22 answer the question.

23 We can reread the question. Can you reread the last
24 question, please.

25 (Record read.)

RUSSO - CROSS - KEDIA

1 THE COURT: The question is do you remember when you
2 were testifying on direct a couple of weeks ago at this
3 hearing in this courtroom that the car involved was a brown or
4 tan Chevy?

5 THE WITNESS: I believe so.

6 Q Mr. Russo, did you steal other cars before you stole this
7 particular car?

8 A I've never stolen cars. I don't know how to steal a car.
9 John Matera stole that car for us.

10 Q Did John Matera or anyone that you were doing attempts to
11 kill Scopo with steal any other cars on other occasions?

12 A I don't remember.

13 Q Do you remember ever using a stolen car on attempts to
14 murder Joe Scopo before this particular --

15 A We used a van. We had a van.

16 Q Where did the van come from?

17 A I don't recall where it came from.

18 Q What kind of van?

19 A It was a white van.

20 Q Who stole it?

21 A Pulled up to meet everybody and they were in the van.

22 Q And tell us about that occasion when you pulled up to
23 meet everybody and they were in the van. Tell us when it was
24 first.

25 A It was when we were looking for Joey Scopo.

RUSSO - CROSS - KEDIA

1 Q And when approximately is this?

2 A I don't know. Twenty something years ago. I really
3 don't.

4 Q I understand, Mr. Russo, but you've testified to a lot of
5 events from --

6 A Okay.

7 Q -- twenty something years ago; is that right?

8 A Excuse me?

9 Q You've testified to a lot of events from 20 something
10 years ago; is that right?

11 A Well, just to the one, the murder, is 20 something years
12 ago.

13 Q Well, and attempts to murder Mr. Scopo?

14 A Yes. Yes.

15 Q And Mr. Cuotolo?

16 A Yes.

17 Q And on direct examination you gave significant details
18 about both of those situations; is that right?

19 A Yes.

20 Q And do you remember them or are you making them up?

21 A No, I'm not making that up. I remember them as I
22 remember them.

23 Q So when you had this van, where were you? When you
24 talked about this van where people pulled up in and you just
25 got in --

RUSSO - CROSS - KEDIA

1 A I met them in Queens.

2 Q Where in Queens?

3 A Me and Frankie met Eric and Johnny Pappa, Robert
4 Tarantola.

5 MR. LIFSHITZ: Your Honor, I don't know if the
6 Court was planning to take a break during the morning, but if
7 you were, maybe this is a good time for it.

8 THE COURT: I was going to take a break in a couple
9 of minutes.

10 Q So where in Queens, Mr. Russo?

11 A Around the area where his club was which is, I believe,
12 Ozone Park. I don't know.

13 Q And what did you do on that occasion?

14 A We met and we just drove around and looked for him.

15 Q Meaning you didn't know where he was?

16 A Well, we'd go home, we'd have to go look for him. We
17 went by his club, his house.

18 Q And did you have other cars or just the stolen car that
19 day?

20 A Well, we had our cars parked and we just went in the van,
21 all of us.

22 Q Everybody went in the van?

23 A Yes.

24 Q Did you have guns on you?

25 A I don't remember.

RUSSO - CROSS - KEDIA

1 Q If you found him, were you going to kill him?

2 A You're talking about one occasion. I don't remember that
3 occasion. We did it multiple times looking for him over there
4 near his club so.

5 Q Is this a van you used on multiple occasions?

6 A We used it a few times, yes.

7 Q When you were in this van, all of you, the people that
8 you described just a few moments ago, all of you were in this
9 van and you're looking for Joe Scopo; is that right?

10 A Yes.

11 Q This is before -- certainly before October 20 of 1993
12 when he was killed?

13 A Absolutely.

14 Q And were you planning on killing him if you found him?

15 A If we found him, yes.

16 Q There are no other cars than the crash cars. There are
17 no other -- just everybody --

18 A We had the car.

19 Q -- piled in one car?

20 A The incident I'm talking about is we were just driving
21 around looking to see if we could find him.

22 THE COURT: Okay. Please, you need to let Ms. Kedia
23 finish asking her question before you answer.

24 Why don't we take a break now. We'll come back.

25 The clock in the courtroom is wrong. It's about five or six

1 minutes behind so we'll gather back up here at noon. We'll
2 take a 15-minute break. Okay.

3 So remember that you can't talk about your testimony
4 with the government.

5 THE WITNESS: Yes, Judge.

6 THE COURT: Scheduling you can talk about, but not
7 your testimony. Okay.

8 All right. I'll see everybody back here at noon.
9 Thank you.

10 Ms. Kedia, are you going to play any more tapes?

11 MS. KEDIA: Yes, Your Honor.

12 THE COURT: Okay.

13 MR. SERCARZ: Your Honor, are we still on the
14 record?

15 THE COURT: We could be.

16 MR. SERCARZ: I thought it -- just sitting here I
17 thought it might be helpful if I made an offer of proof so
18 that the Court understood why Ms. Kedia went back to the
19 Cuotolo attempt. After all, you're the finder of the fact.
20 We want you to understand the import of this cross
21 examination. And, quite frankly, I'd like for my colleague to
22 have some latitude.

23 Can I explain it to you, showing you citations from
24 the transcript now? Will that be helpful?

25 THE COURT: No. I need to take a break and take

RUSSO - CROSS - KEDIA

1 care of something now.

2 MR. SERCARZ: That's fine.

3 THE COURT: And this is a limited hearing. This is
4 not a free for all.

5 MR. SERCARZ: Understood.

6 (Recess taken.)

7 (Continued on the following page.)

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1 THE COURT: Before we bring out the witness,
2 Mr. Secarz, you wanted to make some legal argument.

3 MR. SERCARZ: A factual argument rather than a legal
4 argument. Frankly, Your Honor, it's to try and assist
5 Ms. Kedia and the Court in understanding the relationship
6 between that effort on the life of Mr. Cuotolo and the Scopo
7 homicide.

8 Your Honor, at page 37 of the -- withdrawn. At
9 page 35 of the transcript of the direct examination, Mr. Russo
10 makes it clear that the plan to kill Mr. Scopo took place and,
11 I quote, after they planned to murder "Wild Bill".

12 THE COURT: Cuotolo.

13 MR. SERCARZ: Let me get you there. It will take
14 three seconds. The Court may recall and, indeed, you should
15 next go to page 40 of the direct testimony.

16 The plan to the plan to kill Scopo allegedly began
17 when Michael Persico said, Go see Eric, he's a line on Joey.

18 The next piece of testimony on the direct
19 examination is, the meeting takes place between Eric and
20 Mr. Russo and Mr. Russo comes back and asks Mr. Persico for
21 weapons. At that point, according to the direct testimony
22 that you heard two weeks ago, my client, Mr. Persico, says
23 that Smiley is going to deliver a bag and the bag contains
24 weapons. The weapons are a MAC 10 and two pistols.

25 Now the import of this cross-examination, I

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1 respectfully submit, is that if they already had the MAC 10
2 and the pistols when they were going after Mr. Cuotolo, they
3 didn't get those weapons as a result of a conversation that
4 they had with Michael Persico. That's why it's important for
5 us to elicit the sequence of events and Ms. Kedia made it very
6 clear with this again with this witness today, that first they
7 went after Cuotolo, then they went after Scopo. That when
8 they went after Cuotolo they already had the MAC 10 and the
9 .38 caliber weapon.

10 Now the government may attribute this to a faulty
11 memory of an event that is 25 years old, but given that the
12 only evidence that they have tying Mr. Persico to the Scopo
13 homicide or statements they are attributing to him, these
14 inconsistencies have weight. And I thought it would be useful
15 for you to have that, Your Honor, in hearing where Ms. Kedia
16 is going with this cross-examination. Unfortunately, we don't
17 get to give opening statements at hearings like this, so it's
18 not always clear to the finder of the fact where we're headed,
19 but that's where we're headed. And, indeed, I respectful
20 submit --

21 THE COURT: But she's already elicited all of this
22 business about the Cuotolo murders and when it occurred. So
23 let's move on to the gist of what we have to do.

24 MR. SERCARZ: Fair enough. But I wanted you to
25 understand from our perspective this piece so that you could

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1 have it for what it's worth and consider whether or not there
2 aren't similar factual inconsistencies which cast doubt on the
3 other statements that they've attributed to Michael Persico.

4 THE COURT: Aren't there transcripts of
5 conversations of Mr. Persico that were suppressed in the
6 Guerra trial --

7 MS. KEDIA: No, Your Honor.

8 THE COURT: -- concerning the Scopo murder?

9 I'm asking the government.

10 MS. KEDIA: Oh, I apologize.

11 THE COURT: And let me finish asking the question
12 before you answer.

13 MR. LIFSHITZ: Your Honor, no, I don't believe so.
14 There were prison recordings that may have related to a
15 different murder that was charged against Guerra that were
16 suppressed --

17 THE COURT: Okay.

18 MR. LIFSHITZ: -- but not relating to the Scopo
19 murder.

20 THE COURT: Okay.

21 We have folks in the audience, I assume nobody there
22 is a witness for this hearing.

23 MS. KEDIA: No, Your Honor --

24 MR. LIFSHITZ: Not for the government.

25 MS. KEDIA: -- not for the defense.

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1 THE COURT: I wanted to make sure. I wanted to ask
2 earlier.

3 Do you wish to respond, Mr. Lifshitz?

4 MR. LIFSHITZ: Your Honor, I think whatever the
5 defense argument is, the record is now made. I don't think
6 this witness said that the same Mac 10 was used to kill Scopo
7 as it had been provided previously for Cuotolo, but if they
8 want to make that argument based on the record I think they
9 have the tools that they have tried to establish to do that.

10 THE COURT: I think that the ground has been covered
11 sufficiently, so let's just move on with the rest of it.

12 We can bring out the witness.

13 MR. LIFSHITZ: Thank you, Your Honor. Can we ask
14 for a rough estimate how much longer the cross?

15 THE COURT: How much more do you have on cross?

16 MS. KEDIA: Certainly I'll be going after lunch,
17 Your Honor, it really depends on how quickly I get the witness
18 to answer the question. I have still several areas to cover
19 though.

20 THE COURT: All right. Well, get to the point.
21 Okay. I made time until tomorrow if we have to continue the
22 hearing until tomorrow.

23 MS. KEDIA: Thank you, Your Honor.

24 Judge, I take it we will be sitting until
25 5:00 o'clock today?

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1 THE COURT: Yes, we'll probably take a mid-afternoon
2 break.

3 This is a Fatico hearing continued, same appearances
4 as this morning. Mr. Russo has resumed the witness stand.

5 I remind, sir, you that you are still under oath.
6 There is water there for you --

7 THE WITNESS: Yes.

8 THE COURT: -- if you would like some water just
9 always be careful with the pitcher.

10 You may inquire when you are ready, Ms. Kedia.

11 MS. KEDIA: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. KEDIA:

14 Q Mr. Russo, you testified on direct examination that you
15 started looking for Joey Scopo when Michael asked you to go
16 down to see Eric, you recall that?

17 A Yes.

18 Q And you testified that Michael said Eric had told him
19 that he had a line on Joey; is that right?

20 A Yes.

21 Q You were with BF on that date?

22 A When I went to see Eric, yes.

23 Q Did you go see Eric just following your conversation with
24 Michael Persico?

25 A We went down to see Eric, yes.

RUSSO - CROSS - KEDIA

1 Q So you had the conversation and then you went to see
2 Eric, meaning I'm asking if it happened all on the same day?

3 A Yes.

4 Q Do you recall testifying at the Guerra trial that when
5 you went to see Eric you were alone, you were not with BF?

6 A Excuse me?

7 Q Do you recall testifying at the Guerra trial that you
8 were not with BF --

9 A No, I don't.

10 Q -- you were alone when you went to see Eric?

11 A No I don't remember that.

12 Q Where did you go see Eric?

13 A Downtown, Brooklyn.

14 Q Where?

15 A Downtown, Henry Street.

16 Q And what's on Henry Street?

17 A He had a club down there.

18 Q And do you recall that when you went to see Eric that
19 you -- that it was just you and Eric on that particular
20 occasion?

21 A No, I don't remember that.

22 Q Because that's not what happened, you were with BF; is
23 that right?

24 A I believe so, yes.

25 Q Do you recall -- let me ask you this -- being asked these

RUSSO - CROSS - KEDIA

1 questions and giving these answers?

2 THE COURT: When?

3 MS. KEDIA: I'm just looking for the page, Your
4 Honor, on --

5 THE COURT: When and at what proceeding?

6 BY MS. KEDIA:

7 Q Mr. Russo, at the Guerra trial, at Frank Guerra's trial
8 when you testified, do you recall being asked these questions
9 and giving these answers on page 206 and 207.

10 THE COURT: Can we have the exhibit number again,
11 please.

12 MS. KEDIA: Yes, 3500AR63, Your Honor.

13 THE COURT: I'm sorry, the page again.

14 MS. KEDIA: Page 206 starting at line 22.

15 "Q You said that after you spoke to Michael
16 Persico you went to see Eric at his club, what happened
17 during that meeting?

18 "A He called me about that he had a lead on
19 Joey, that he wanted to get Joey. He wanted to know if
20 I was interested and BF. And I told him I don't know
21 about BF I would have to talk to him about it. I said,
22 we'll get together and we'll discuss it.

23 "Q What happened next?

24 "A I went to talk to BF, we had a
25 discussion, he said no problem. I told him maybe just

RUSSO - CROSS - KEDIA

1 me him and Bobby Tarantola would get involved, Little
2 Anthony, the four of us and Eric.

3 "Q What happened next?

4 "A And then Eric -- after we decided we
5 were going to do this, we went to see Eric, me and BF,
6 and we told him we were going to do it."

7 Do you remember being asked those questions and
8 those answers?

9 A No, I don't.

10 Q And do you remember being asked at that same proceeding
11 at page 694, Your Honor -- line 6, Your Honor, I'm starting
12 at.

13 "Q Now Mr. Curcio had a club on Henry
14 Street.

15 "A I believe so, yes.

16 "Q And you were there?

17 "A Yes.

18 "Q And this is when he told you that he was
19 laying on Joey?

20 "A He said he wanted to know if we could
21 help him out with that.

22 "Q And did he say Joey or Joey Scopo?

23 "A I think he just said Joey Scopo, yes.

24 "Q And he asked you for your help?

25 "A He asked if I would help him, me,

RUSSO - CROSS - KEDIA

1 Frankie and Bobby.

2 "Q Okay. So he just blurted out saying
3 would the three of you help even though the other two
4 weren't with you at the time?

5 "A Yes.

6 "Q So he's having a conversation with you
7 and the other two at the same time?

8 "A Me and the other two? It was just me
9 and Eric that day."

10 Do you remember being --

11 A No, I don't.

12 Q -- asked those questions and giving those answers?

13 A No.

14 Q Mr. Russo, do you remember if it was just you and Eric
15 that day or not?

16 A No, I believe it was me and BF.

17 Q So if you testified that it was just you and Eric, were
18 you lying?

19 A No, I was not.

20 MR. LIFSHITZ: Objection, Your Honor.

21 THE COURT: Overruled. I'll allow it. The answer
22 will stand.

23 Q Now, Mr. Russo, at this time when you are -- this is when
24 you first begin to start looking for Joe Scopo; is that right?
25 Following this conversation, is that right, with Eric?

RUSSO - CROSS - KEDIA

1 A A certain amount of time after that, yes. A little while
2 after the conversation I guess we --

3 Q You had this conversation with Eric and then sometime,
4 what, weeks, days, months after that?

5 A I don't -- I don't know.

6 Q And at that point you had already been looking for Bill
7 Cuotolo for some time?

8 A Yes, we did.

9 Q And at that point you stopped looking for Bill Cuotolo
10 and you started looking for -- you stopped looking to kill
11 Bill Cuotolo and you started looking to kill Joe Scopo?

12 A Yes.

13 Q And did you have any understanding as to why you were
14 stopping looking for Bill Cuotolo and starting to look for Joe
15 Scopo?

16 A I don't remember why we stopped looking for Billy.

17 Q Now, Mr. Russo, you testified about a conversation that
18 you allegedly had with Mr. Persico while you were looking for
19 Joe Scopo. Do you recall testifying about various
20 conversations you had with him?

21 A With Michael?

22 Q Yes.

23 A Yeah.

24 Q And you testified that at some point Michael Persico
25 said, you've got to get this done before Allie goes to trial,

RUSSO - CROSS - KEDIA

1 do you recall that?

2 A That's what I remember, yes.

3 Q And do you know when Allie was scheduled to go to trial?

4 A No, I do not.

5 Q Do you know what Allie was scheduled to go to trial for?

6 A Something about the war.

7 Q What does that mean, something about the war?

8 A He was on trial for something that had to do with the
9 war, I don't know. He was on trial, he was going to trial.

10 Q He was in prison right?

11 A Yes.

12 Q And you testified that the reason -- your understanding
13 of the reasons you had to get this done before he went to
14 trial is that at least he would have an alibi, meaning Allie
15 Persico would have an alibi, right?

16 A That's the way I took it, yes.

17 Q That if he's in jail he had nothing to do it?

18 A That's the way I took it, yes.

19 Q Nobody said that to you that's just what you understood
20 it to be?

21 A Yes.

22 Q When was this conversation?

23 A I don't remember.

24 Q How long before you killed Joe Scopo was this
25 conversation?

RUSSO - CROSS - KEDIA

1 A It was before we killed him, yes.

2 Q How long before?

3 A I can't recall.

4 Q You testified about a funeral --

5 A Right.

6 Q -- where you saw Teddy Persico --

7 A Right.

8 Q -- junior.

9 Do you recall that?

10 A Yes.

11 Q Do you recall when that was?

12 A It was sometime in '93, I don't know exactly. It was
13 warm out, maybe March, April, May, June, I don't remember. I
14 don't recall.

15 Q Was this conversation with Michael Persico about getting
16 this done before his brother goes to trial, was this before or
17 after the funeral?

18 A It was before his brother was going to trial.

19 Q Was it before or after the funeral?

20 A I don't recall.

21 Q Do you know how long before you killed Joe Scopo this
22 conversation occurred?

23 THE COURT: Asked and answered. Move on.

24 Q Did you know Allie Persico at that point?

25 A No.

RUSSO - CROSS - KEDIA

1 Q He had been in jail the whole time that you were out; is
2 that right --

3 A Yes.

4 Q -- after you got out in 1992?

5 A Yes.

6 Q Do you know that he was indicted in May of 1993?

7 A No. I know he was in jail.

8 Q Do you know that he was facing several war related
9 murders having ordered them?

10 A Did I know that?

11 Q Right.

12 A I heard that, something like that.

13 Q And that he was facing a trial for conspiracy to murder
14 those aligned with the Orena faction?

15 A No, I don't know.

16 Q You don't know.

17 Do you know that he went to trial in the summer of
18 1994?

19 A I believe so, I believe that's right.

20 Q You believe that's right?

21 A I believe so.

22 Q He was acquitted on August 8th, 1994, do you recall that?

23 A Yes.

24 Q You said that after -- so you have no recollection of
25 when that conversation was, but you testified on direct

RUSSO - CROSS - KEDIA

1 examination that that conversation occurred and then you lost
2 Scopo for a little while; is that right?

3 A You're asking for specific dates and times, I can't do
4 that.

5 THE COURT: It's a compound question.

6 Q You testified about this conversation you had --

7 A Yes.

8 THE COURT: Okay, yes.

9 A Yes.

10 Q And you testified on direct examination that after that
11 conversation, we had problems finding Scopo because he moved
12 to another area and we didn't know where he was.

13 A Is that what I testified to then, yes.

14 Q Well do you recall that? Is that correct?

15 A Yes.

16 Q I'm talking about two weeks ago.

17 A How do I say this again? Yes.

18 Q Do you know when Scopo moved out of his Brooklyn home and
19 into his Queens home?

20 A Do I know when Scopo moved out --

21 Q Yes.

22 A -- of Brooklyn to Queens?

23 Q Yes.

24 A No, I can't give you specific dates and times. '93.

25 Q In '93.

RUSSO - CROSS - KEDIA

1 A Yeah.

2 Q About?

3 A Yeah.

4 Q And you said you stopped looking for him for a few weeks;
5 is that right?

6 A Yes, I believe so.

7 Q And you stopped looking for him even though you were told
8 to hurry up and get him before Allie went to trial --

9 A We couldn't find him.

10 Q -- right?

11 You didn't stop looking for him --

12 A We couldn't find him.

13 Q -- you just couldn't find him?

14 A Yes.

15 Q You talked about an occasion where you got out of --
16 where you went by his club; is that right?

17 A Yes.

18 Q And you got out --

19 A Yes.

20 Q -- out by his club and you walk past him --

21 A No, he walked past me.

22 Q -- and you --

23 THE COURT REPORTER: I'm sorry.

24 THE COURT: You're both doing this again.

25 You have to wait until she finishes asking the

RUSSO - CROSS - KEDIA

1 question --

2 THE WITNESS: Okay. Sorry about that.

3 THE COURT: -- and if he starts talking you need to
4 stop because nothing is getting written down.

5 So why don't you start asking your question again.

6 MS. KEDIA: Yes, Your Honor.

7 Q Mr. Russo, you testified about going around the block
8 outside of Mr. Scopo's club just to take a walk, you were
9 going to smoke a cigarette; is that right?

10 A I went down to the club to see if he was around at his
11 club figuring he didn't know who I was, so I went past it to
12 see if he was in the club.

13 Q And when you say he didn't know who you were --

14 A Joe Scopo did not know me.

15 Q -- he didn't know -- he wouldn't recognize your face or
16 as someone who might be a problem for him?

17 A No.

18 Q And did you know what he looked like at the time?

19 A Yes.

20 Q How did you know what he looked like?

21 A I had pictures.

22 Q I'm sorry?

23 A I seen pictures. And I seen him at his house, so I knew
24 what he looked like.

25 Q Mr. Russo, do you recall testifying at the Guerra trial,

RUSSO - CROSS - KEDIA

1 the trial against Frank Guerra --

2 A Yes.

3 Q -- and being asked this question and giving this answer?

4 3500AR63, Your Honor, page 724.

5 You're testifying about the night of the murder and
6 you were asked this question and gave this answer.

7 "Q Did you know where Joey was sitting in
8 the car?

9 "A The passenger seat of the Altima.

10 "Q But you didn't know what Joey looked
11 like?

12 "A Well, that was him, we knew --

13 "Q You know that now, but you didn't know
14 what he looks like?

15 "A I didn't know what he looks like."

16 THE COURT: We don't know what time frame --

17 Q Do you recall --

18 THE COURT: -- that question concerns.

19 MS. KEDIA: I can back it up, Your Honor. This is
20 the night of the murder.

21 Q Do you recall being asked those questions and giving
22 those answers about the night of the actual murder of Joe
23 Scopo?

24 A No, I don't.

25 MS. KEDIA: Your Honor, the several pages before --

RUSSO - CROSS - KEDIA

1 if I may just explain to the Court, the several pages before
2 this question and answer it's making it very clear that the
3 questions and answers pertain to the night of the Scopo
4 murder. If I may just offer that to the Court rather than
5 just reading the questions and answers all to the witness.

6 THE COURT: Okay.

7 BY MS. KEDIA:

8 Q Now you just testified that the night that you were out
9 at his club walking by smoking -- going to smoke a cigarette
10 that you knew what he looked like, right?

11 A Yes.

12 Q Do you recall being asked this question on direct
13 examination at Mr. Guerra's trial and giving this answer?

14 THE COURT: What page number is that?

15 MS. KEDIA: Page 219, Your Honor.

16 Q Question -- and this is, let's start at line 7 --

17 "Is that where you murdered him in Queens?

18 "A Yes.

19 "Q Prior to that, when you were going out
20 to surveil him, did you ever have a close call with
21 him?

22 "A Yes.

23 "Q What happened?

24 "A One night me and Frankie, I don't know
25 exactly who was there, I know Eric was there, I got out

RUSSO - CROSS - KEDIA

1 of the car because we were going by the club on 100 and
2 First Avenue. And he had a club there, Joe Scopo, and
3 so I knew he didn't know what I looked like and I
4 just -- so I just told him I'll get out of the car and
5 buy a pack of cigarettes, I'm going to look in the club
6 to see if he's in there. And I just walked past his
7 club, I turned the corner, I'm walking around, I'm
8 getting ready to light a cigarette and I had a radio on
9 me, a walkie-talkie, and they told me he's right behind
10 me, so I shut things down. I looked behind me and I
11 turned around and started walking back. And it was
12 this guy Joey and this guy Sal Miciotto, "Fat Sally"
13 that's what they called him.

14 "Q You said Sally Miciotto?

15 "A Yes.

16 "Q What was your understanding of who Sally
17 Miciotto was?

18 "A He was a made member of the Colombos.

19 "Q What side of the war was he on?

20 "A Orena side.

21 "Q What were you using that night that you
22 were able to communicate?

23 "A Walkie-talkies."

24 Q Do you recall being asked those questions and giving
25 those answers?

RUSSO - CROSS - KEDIA

1 A Yes.

2 Q And it was Frank Guerra that told you, according to you,
3 that Scopo was in the area, right? It wasn't because you
4 recognized him; is that right?

5 A Excuse me?

6 Q It wasn't because you recognized him; is that right?

7 MR. LIFSHITZ: Your Honor, the testimony is what it
8 is, and it's that Scopo was behind him. And if the defense
9 wants to move in the entire Guerra transcript of this witness
10 as an exhibit for sentencing, we don't object to that. We've
11 provided it to the Court previously. Maybe we can cut through
12 reading portions of the testimony and asking him if he
13 remembers saying these things. If they are in the record
14 they're in the record.

15 MS. KEDIA: Judge, I have no problem with that and
16 certainly to the extent that we want to emphasize any issue
17 with the Court, we can certainly submit that to the Court. I
18 have no objection to that.

19 THE COURT: That's fine. If the parties agree to
20 that it will go in as Defense Exhibit C. That's the entire
21 transcript, correct?

22 MS. KEDIA: Yes, Your Honor.

23 (Defense Exhibit C, was received in evidence.)

24 Q Mr. Russo, we were discussing earlier you that had stolen
25 a vehicle that you used on the night of the murder, right?

RUSSO - CROSS - KEDIA

1 A Uh-huh.

2 Q When did you steal this car?

3 A I don't remember. It's before the murder.

4 Q Do you remember --

5 A I didn't steal it. John Matera did it, got it for us.

6 Q You don't recall when?

7 A No, I don't.

8 Q Whether it was months or weeks or --

9 A No, I don't.

10 Q Do you recall what you did with it?

11 THE COURT: When?

12 BY MS. KEDIA:

13 Q After it was stolen and before the murder -- before the
14 night of the murder, do you recall what you did with it?

15 A No. I don't.

16 Q Do you recall testifying that you had it for a while, you
17 gave it to BF for a while?

18 THE COURT: Testifying when?

19 Q Testifying at the Guerra trial. You've only testified on
20 one occasion, right, Mr. Russo --

21 A Yes.

22 Q -- is your testimony here?

23 Do you recall testifying at the Guerra trial that
24 you kept the car for a while yourself, you moved it around for
25 a while, you gave it to BF for a while, you kept it in John

RUSSO - CROSS - KEDIA

1 Matera's garage for a while?

2 A Yes.

3 THE COURT: Stricken as to form. Either you're
4 going to ask, do you recall being asked this question or
5 giving this answer, or else just point it out in the
6 testimony. I don't understand what the whole point was then
7 of moving in the entire transcript.

8 MS. KEDIA: Yes, Your Honor, I just want to know
9 what the witness recalls here today actually.

10 Do you recall --

11 THE COURT: Then ask it the way I suggested.

12 MS. KEDIA: Yes, Your Honor. I'll just move on from
13 this particular topic.

14 Q Now, Mr. Russo, you testified about getting a bag of
15 guns; is that right --

16 A Yes.

17 Q -- do you recall that?

18 And this is a bag of guns that came as a result of
19 what? How did you get this bag of guns?

20 A Got 'em from Frankie, BF.

21 Q BF?

22 A Yes.

23 Q When did you get this bag of guns?

24 A The day we were talking to Michael, that same night
25 talking to him about getting guns.

1 Q What same night?

2 A The night we -- the day we talked to Michael. I can't
3 give you a date and time. My testimony was that I talked to
4 Michael with BF, he told Smiley to get the bag, bring it to
5 us. BF brought it to my house that night. That was my
6 testimony.

7 Q Was Smiley present during this conversation?

8 A When we were asking Michael --

9 Q Yes.

10 A -- for the guns?

11 Q Yes.

12 A He was standing right there.

13 Q And what did you do with this bag of guns?

14 THE COURT: You know what? Both of you do the same
15 thing. You put your hands over your mouth when you're talking
16 and that kind of muddies up the words as they are coming out.
17 So if both you of would refrain from putting your hands in
18 front of your mouth, I'd appreciate it so that the words come
19 out clearly.

20 Thank you. I'm sorry to interrupt you, but you were
21 both doing that.

22 MS. KEDIA: Sorry, Judge.

23 THE COURT: That's okay. You do it too.

24 BY MS. KEDIA:

25 Q You testified about having a conversation with Michael

RUSSO - CROSS - KEDIA

1 and on that same day -- it's your recollection that on that
2 same day you received a bag of guns?

3 MR. LIFSHITZ: Asked and answered multiple times,
4 Your Honor.

5 THE COURT: I'll allow the answer. You can answer
6 the question.

7 A Yes.

8 Q What was in the bag?

9 A Guns.

10 Q What kind of guns?

11 A There was a Mac 10, a silencer, a couple of other guns,
12 couple of home-made silencers that were just discarded.

13 Q What other kinds of guns besides --

14 A I can't recall.

15 Q How many other guns?

16 A I don't recall.

17 Q Well, do you recall telling agents before what was in
18 that bag?

19 A I'm sure I did.

20 Q Do you recall --

21 A I know --

22 Q -- telling them that there was a Mac 10 and a .38 snub?

23 A If that's what my testimony was, yes.

24 Q Do you recall that those were the only two guns that you
25 said were in the bag?

RUSSO - CROSS - KEDIA

1 A I don't remember.

2 Q Let me show you what is marked as 3500AR28, page 10.

3 THE COURT: If you can tell us what that is, please,
4 for the record.

5 MS. KEDIA: Yes. These are notes taken during a
6 debriefing of Mr. Russo.

7 THE COURT: By the FBI agents?

8 MS. KEDIA: Yes.

9 THE COURT: Just take your time and take a look at
10 them and let us know once you're done.

11 A I can't even read these notes.

12 THE COURT: Those are handwritten notes?

13 THE WITNESS: Yeah.

14 MS. KEDIA: They are, Your Honor.

15 THE WITNESS: They are horrible.

16 MS. KEDIA: May I approach the witness and show him
17 the specific spot.

18 THE COURT: Yes. If you can tell us what page it
19 is.

20 MS. KEDIA: Page 10 of 3500AR28.

21 THE WITNESS: What is this? I can't understand his
22 writing.

23 THE COURT: Well, if you can't understand the
24 handwriting, you can't understand the handwriting. I don't
25 want you to guess.

RUSSO - CROSS - KEDIA

1 THE WITNESS: No, I'm not.

2 THE COURT: The handwriting is atrocious.

3 THE WITNESS: Yes, a hundred percent.

4 BY MS. KEDIA:

5 Q So, Mr. Russo, do you recall what was in the bag or you
6 don't, how many pistols were in there --

7 A Yes --

8 Q -- or not?

9 A -- I testified to what I -- just now what I said, a
10 silencer, Mac 10, a couple of silencers that were home-made,
11 we just didn't even bother with them. There was a couple of
12 other things in there, a couple of guns we didn't even bother
13 with.

14 Q When you say you didn't bother with them --

15 A We didn't use them.

16 Q -- what does that mean?

17 So the only one that you used was the Mac 10?

18 A Yes.

19 Q And this is after you have this conversation with Eric
20 about looking for Joey; is that right?

21 A I don't understand that question.

22 Q I'm sorry. When you get this bag of guns --

23 A Yes.

24 Q -- this is after you have this conversation with Eric
25 about looking for Joey, that you're going to look for Joey

RUSSO - CROSS - KEDIA

1 Scopo --

2 A Possibly, I don't remember.

3 Q -- is that right?

4 You don't remember?

5 A No, I don't.

6 Q Do you remember what happened to the pistols?

7 A I don't.

8 Q Do you remember telling agents that the .38 was thrown
9 off the Verrazano Bridge in the water?

10 A No, I don't.

11 Q Do you remember -- did you ever fire any of the guns?

12 A Yes, once by accident.

13 Q When you say by accident, explain what you mean.

14 A I had the Mac 10 in my car and I was putting it in
15 between the seat of my car and it went off.

16 Q And it went off when you did that?

17 A Yes.

18 Q Do you remember at Mr. Guerra's trial testifying that you
19 didn't remember ever firing any of them?

20 A No.

21 Q Do you remember being asked this question and giving this
22 answer, Mr. Russo, on direct examination at page 209?

23 Question, line 11.

24 "Where did you store the guns?

25 "A In my house.

RUSSO - CROSS - KEDIA

1 "Q Did you ever fire any of them?

2 "A No, not that I remember."

3 A Well, I said it was an accident in my car. I remember
4 specifically telling the agents about it. And they even asked
5 me where the car was because they wanted to try to find the
6 car.

7 Q Did they find the car?

8 A Not that I know of.

9 Q Do you remember giving that testimony on direct
10 examination at the Guerra trial --

11 A I don't remember them --

12 Q -- the Guerra trial?

13 A -- asking me that on direct, no.

14 Q You don't.

15 Did you ever test fire any of the guns, meaning on
16 purpose?

17 A No.

18 Q Do you know that people during the war were test firing
19 the weapons that they were using on a regular basis?

20 A I've heard that.

21 Q But you didn't think that that was necessary in this
22 particular case?

23 A No.

24 THE COURT: I'm not going to allow him to answer the
25 question. Really, can you move on?

RUSSO - CROSS - KEDIA

1 BY MS. KEDIA:

2 Q You testified that during this time that you were looking
3 for Joe Scopo that BF was visiting Teddy Persico in prison a
4 lot; is that right?

5 A Was that my words, a lot?

6 Q Yes.

7 A Okay.

8 Q Do you remember that?

9 A No, I don't.

10 Q This is on direct examination two weeks ago, Mr. Russo --

11 A I said a lot --

12 Q -- do you remember --

13 A -- then that's what I said.

14 THE COURT: You have to wait until she finishes --

15 THE WITNESS: I'm sorry.

16 THE COURT: -- the question, please.

17 THE WITNESS: She's starting to get to me.

18 BY MS. KEDIA:

19 Q Well, was it a lot?

20 A A few times is a lot, I don't know.

21 Q Well, do you know --

22 A He's been up there a few times, yeah, so to me that's a
23 lot.

24 Q You testified that he went up to there to discuss the
25 murder, the plan to murder Joe Scopo with Teddy Persico,

RUSSO - CROSS - KEDIA

235

1 right?

2 A Yeah.

3 Q And that, in fact, Teddy Persico expressed a concern that
4 you had never participated in a murder --

5 A Yes.

6 Q -- before --

7 A Well, he didn't --

8 Q -- or questioned whether he had?

9 A He never expressed that, he was just concerned if I ever
10 did anything before.

11 Q Well, when you say did anything, what do you mean?

12 A That I was involved in a murder before.

13 Q And he wanted to make sure that --

14 A I was capable of --

15 Q -- you were capable of handling it --

16 A Right.

17 Q -- is that right?

18 A Yes.

19 Q And you said that you had done something along time ago
20 with a guy by the name of Munchie; is that right?

21 A Yes, I did, yes.

22 Q And that wasn't really true, you were just telling him --

23 A Yes.

24 Q -- that to --

25 Now, did Mr. Guerra go see Mr. Persico again,

RUSSO - CROSS - KEDIA

1 meaning Theodore Persico, back in jail to tell him don't
2 worry, this is okay?

3 A I don't remember.

4 Q Well, wasn't that the point of telling him about Munchie?

5 A The point? The point was for everybody not to get
6 nervous and just relax.

7 Q Right, but --

8 A If I told Teddy, I don't remember.

9 Q Now you testified about a funeral at which you saw Teddy
10 Persico?

11 A Uh-huh, yes.

12 Q And this is when he gave you an order to kill Joe Scopo;
13 is that right?

14 A Yes.

15 Q And he came to the funeral from jail; is that right? He
16 was in prison at the time?

17 A Yes.

18 Q And he was accompanied by guards?

19 A Yes.

20 Q And he met with you, Mr. Russo?

21 A He came down to pay his respects to his grandmother. We
22 were there.

23 Q Who is we?

24 A There was a lot of people there.

25 Q Describe what happened.

RUSSO - CROSS - KEDIA

1 A He came in, he went up to the casket, we were standing
2 there. We sat down with him, we had a discussion, and that
3 was it.

4 Q And who was we, when you say "we"?

5 A Me, Bobby and BF.

6 Q When you had a discussion with Teddy Persico at this
7 funeral, were there guards around him?

8 A No.

9 Q Where were you sitting?

10 A In the chapel.

11 Q Where in the chapel?

12 A I don't exactly remember where.

13 Q Was he --

14 A It was in the chapel.

15 Q Was he handcuffed or shackled?

16 A He wasn't handcuffed.

17 Q Was he shackled?

18 A I don't remember if he was shackled or not.

19 Q Well, do you remember testifying at Mr. Guerra's trial
20 that he definitely didn't have any shackles on?

21 A No, I don't remember that.

22 Q Where did you have this conversation with Mr. Persico
23 with you -- and when I say, Mr. Persico, Theodore Persico?

24 MR. LIFSHITZ: Asked and answered.

25 A In the chapel.

RUSSO - CROSS - KEDIA

1 Q Where in the chapel though?

2 A In the chapel.

3 THE COURT: Sustained. Asked and answered. Asked
4 and answered. And the answer is stricken.

5 BY MS. KEDIA:

6 Q Mr. Russo, the night of the murder you testified that you
7 pulled up on Joe Scopo as he was turning the corner toward his
8 home; is that right?

9 A Could you repeat that, please.

10 Q The night of the murder --

11 A Yeah.

12 Q -- the night that you killed Joe Scopo --

13 A Yes.

14 Q -- you testified that you -- as he was turning the corner
15 to go home you and others pulled up on him as they were
16 parking; is that right?

17 A Yes.

18 Q Now it was you Eric Curcio, John Pappa, John Sparacino
19 that day?

20 A Sparacino.

21 Q Sparacino.

22 A Yeah, uh-huh.

23 Q Anyone else?

24 A BF.

25 Q And there were how many cars --

RUSSO - CROSS - KEDIA

1 A Three.

2 Q -- that you had on that occasion?

3 A Three cars.

4 Q Now when you saw Mr. Scopo turning the corner, how is it
5 that you recognized it to be Mr. Scopo?

6 A Eric said, there he goes --

7 Q And when you --

8 A -- that's Joey making the -- turning the corner.

9 Q And would you have recognized him otherwise?

10 A Yes.

11 Q Because you had seen him before?

12 A Yes, when he walked up behind me.

13 Q But on this particular occasion you didn't see him, you
14 saw Eric get out --

15 A I didn't see nothing. I just saw --

16 THE COURT REPORTER: I'm sorry, I didn't hear the
17 end of your question.

18 THE COURT: Again, please, you need to wait until
19 she finishes the question.

20 THE WITNESS: Yes, Your Honor.

21 BY MS. KEDIA:

22 Q On this particular occasion, sir, it's not you that
23 noticed Mr. Scopo it was Eric Curcio that pointed it out to
24 you; is that right?

25 A Yes.

RUSSO - CROSS - KEDIA

1 Q He was in a Nissan Altima, I think you said?

2 A Yes.

3 Q Is that a car that you had seen him driving before?

4 A No.

5 Q Do you know if that was his car?

6 A No.

7 Q Now you said that as they turned the corner you got into
8 your car -- you were outside your car; is that right?

9 A Yes.

10 Q You got into your car and you pulled up?

11 A Yes.

12 Q And you described wearing -- that you were wearing a hat
13 and your hat flew off --

14 A Yes.

15 Q -- as gunfire exchanged, right?

16 A Yes.

17 Q Now let me ask you this, you said there were three people
18 in the car, right?

19 A Yes.

20 Q And you knew that there were three people in the car at
21 the time?

22 THE COURT: In which car?

23 Q I'm sorry, in Joe Scopo's car.

24 A Yes.

25 Q Did you know that there were three people in Joe Scopo's

RUSSO - CROSS - KEDIA

1 car --

2 A Yes.

3 Q -- at the time that you pulled up on him --

4 A Yes.

5 Q -- you saw the other two people?

6 A Yes.

7 THE COURT: Okay, enough already.

8 Q Did you know --

9 THE COURT: You're banging the damn nail on the head

10 50,000 times.

11 BY MS. KEDIA:

12 Q Did you know who they were?

13 A I know who the other two are?

14 Q Yes.

15 A No.

16 Q They were strangers to you at the time?

17 A I did not know them, no.

18 Q So you testified on direct examination, Mr. Russo, that

19 there were occasions -- there was another occasion where you

20 pulled up on Scopo, the time you saw him outside the club and

21 you went to light a cigarette and that you were about to pull

22 out your pistol --

23 A Yes.

24 Q -- but there were other people walking out of their

25 house; is that right?

RUSSO - CROSS - KEDIA

1 A Yes. Yes.

2 Q Right?

3 A Yes.

4 Q And you didn't shoot him because you didn't want to hurt
5 any innocent people?

6 A Yes.

7 Q You testified about the same thing with respect to Billy
8 Cuotolo, you were about to kill him one day --

9 A Yes.

10 Q -- but there were other people around?

11 A Yes.

12 Q But on this particular occasion you didn't care there
13 were two other people in the car, you still had --

14 A They were part of that life.

15 Q How do you know that they were part of that life? You
16 just said they were strangers?

17 A They were with him, they were part of that life.

18 Q So if they were with him, they could have been his wife,
19 his daughter --

20 A We knew it wasn't a woman. And they shot back, so
21 evidently they were part of that life.

22 Q They shot back but you didn't know they were going to
23 shoot back, right?

24 A No, I didn't, but they did.

25 Q Mr. Russo, you didn't care if you killed any innocent

RUSSO - CROSS - KEDIA

1 people --

2 A Yeah, yeah --

3 THE COURT: Okay. Stop enough.

4 BY MS. KEDIA:

5 Q Now, Mr. Russo, you testified that Johnny Pappa jumped
6 out of the car at some point, right?

7 A Yes, I did.

8 Q John Sparacino had --

9 A Sparacino.

10 Q Sparacino had already fired all of his rounds that were
11 in the Mac 10; is that right?

12 A Yes.

13 Q And he didn't -- and he wasn't successful in shooting
14 Joey Scopo?

15 A I guess they were all successful; he passed away.

16 Q What does that mean, that John Sparacino shot him?

17 A It was successful, yes.

18 Q Well, do you know if John Sparacino shot Joe Scopo?

19 A Yes, I did -- yes, I do, I know he shot him. He emptied
20 out the gun through the window in the car.

21 Q He emptied out the gun, did he actually hit Joe Scopo?

22 A I can't tell you that. I wasn't there in the car with
23 him, Joey Scopo, I was in my car with Johnny Sparacino and
24 Johnny Pappa.

25 Q So why did John Pappa get out of the car?

RUSSO - CROSS - KEDIA

1 A I have no clue, ask John Pappa that.

2 (Continued on the next page.)

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Russo - Cross - Kedia

1 CROSS-EXAMINATION (Continued)

2 BY MS. KEDIA:

3 Q Well, do you recall testifying at Mr. Guerra's trial that
4 Johnny got out of the car because you told him to get out?

5 A He said something to that effect.

6 Q I'm sorry?

7 A He said something to the effect which I thought he said
8 "get out."

9 Q Why did you tell him to get out of the car?

10 A Because he asked me, which I told him I said "get out."
11 And make it's done.

12 Q Mr. Russo, do you recall testifying, I asked you a moment
13 ago about your hat flying off, right, during the gun fire.

14 A Yes.

15 Q And what kind of hat was that?

16 A A P cap.

17 Q And what happened to your hat?

18 A It fell out.

19 Q What happened to it?

20 A I don't know.

21 Q Well, did you walk away with it that night?

22 A No. I don't remember what happened.

23 THE COURT: Enough with the hat. Enough with the
24 hat.

25 Q You testified, Mr. Russo, about leaving the MAC-10 in the

1 car.

2 A Yes, I did.

3 Q You recall that, right?

4 A Yes.

5 Q And you told John Sparacino to leave the MAC-10 in the
6 car.

7 A Yes, I did.

8 Q Did he ask you what he should do or did you just...

9 A I just told him to leave it in the car.

10 Q And when did you tell him that, before the murder had
11 taken place? Was it the plan that you had in effect or was
12 this something that you just did at that moment?

13 A I don't remember exactly when I told him. I know when we
14 got out of the car, I said leave the gun in the car. I can't
15 remember if I told him before that moment.

16 Q And you said that you took his hat and you put your
17 gloves in it and you put them in a bush; is that right?

18 A Gloves in it, yes.

19 Q Gloves in his hat and you put them in a bush?

20 A Yes.

21 Q And this is -- this is a hat that Sparacino was wearing,
22 the ski mask, right?

23 A Ski mask, yes.

24 Q Were these gloves that you were wearing?

25 A No.

Russo - Cross - Kedia

1 Q Where did the gloves come from?

2 A I don't remember. I don't remember if it was my gloves,
3 his gloves, I don't remember.

4 Q Well you remember -- wait, you testified on direct
5 examination --

6 A That I had put gloves in a ski mask, yes.

7 Q But now you don't remember whose gloves they were?

8 A I don't.

9 THE COURT: Why don't we break here for the lunch
10 recess. We will resume at 2:15.

11 So again, I'm just going to instruct you that you
12 can't discuss your testimony with the government, you can
13 discuss scheduling but nothing else.

14 All right, thank you.

15 All right, we'll come back at 2:15. Thank you.

16 (Whereupon, a recess was taken at 1:02 p.m.)
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Proceedings

1 A F T E R N O O N S E S S I O N

2 (Time noted: 2:27 p.m.)

3 (In open court.)

4 THE COURT: This is the Fatico hearing continued.
5 Same appearances as this morning.

6 Thank you all for waiting, and if we're ready to
7 continue, you can take the position that the --

8 MS. KEDIA: Thank you.

9 MR. LIFSHITZ: Your Honor, I'm sorry to ask again,
10 but I would ask again for an estimate of how long it will be.
11 I strongly ask that we finish the cross-examination today, in
12 light of the fact that the direct took about two and a half
13 hours.

14 THE COURT: Well, I don't know how much more do you
15 have? You are about 300 pages left on your notebook.

16 MS. KEDIA: No, there aren't that many, Judge.

17 THE COURT: If you didn't ask the same question
18 three or four times we could be done, and it wouldn't be so
19 annoying.

20 MS. KEDIA: I spent the lunch break trying to cut
21 out some things, Judge.

22 THE COURT: Good.

23 MS. KEDIA: I hope I can be done this afternoon. I
24 have some recordings that I intend to play and I know the
25 government agrees that we should just submit certain

Proceedings

1 recordings and that will make it go along faster, rather than
2 asking the witness about each of them.

3 THE COURT: Do you have transcripts of those
4 recordings?

5 MS. KEDIA: Yes.

6 THE COURT: Okay. All right.

7 MS. KEDIA: Anything that I submit to the Court I,
8 will give a transcript.

9 THE COURT: Okay.

10 Well, just because Ms. -- I keep wanting to use your
11 first name first because it's such a pretty name -- Ms. Kedia.
12 All right, even if Ms. Kedia gets done with her
13 cross-examination, is there going to be redirect?

14 MR. LIFSHITZ: Yes. If it were now, it would be
15 very brief. I don't expect it will be more than 10 or 15
16 minutes.

17 THE COURT: Well, they would to be entitled to do
18 recross. We'll go as far as we can go today. I have tomorrow
19 open so the parties should have scheduled for tomorrow.

20 MR. LIFSHITZ: We have, Your Honor.

21 THE COURT: All right. Let's go get the witness.

22 (Pause.)

23 (Witness resumes the stand.)

24 THE COURT: Welcome back, Mr. Russo. I remind you
25 that you are still under oath. This is continued

Russo - Cross - Kedia

1 cross-examination by Ms. Kedia.

2 You may proceed when you are ready.

3 MS. KEDIA: Thank you, Your Honor.

4 CROSS-EXAMINATION (Continued)

5 BY MS. KEDIA:

6 Q Mr. Russo, when we left off, we were discussing your
7 testimony that you took John Sparacino's ski mask and you put
8 some gloves in it, you didn't know whose gloves they were, and
9 that you put them in a bush near the car, right?

10 A Yes.

11 Q Do you recall testifying at Mr. Guerra's trial, at Frank
12 Guerra's trial, that you didn't leave a ski mask anywhere,
13 that John Sparacino left his ski mask in the car?

14 A I don't remember that.

15 Q Do you recall --

16 MS. KEDIA: Your Honor, this is 3500AR63, page 228.

17 "Q What, if anything, did you leave in the
18 car?

19 "A We left the mask hanging in the car.

20 "Q Anything else?

21 "A I think a hat. I think Johnny might
22 have left a hat, his ski mask.

23 "Q Was he wearing a hat?

24 "A He was wearing a ski mask."

25 MS. KEDIA: And, Your Honor, I would then go to the

Russo - Cross - Kedia

1 same 3500AR63, pages 735 and 736, beginning at line 21.

2 "Q So you already -- so you had already
3 left the stolen car?

4 "A Yes, we did.

5 "Q Had you left the MAC-10 machine gun and
6 Sparacino's ski mask in the stolen car?

7 "A I didn't leave a ski mask in the car, I
8 told him to leave the machine gun in the car.

9 "Q You were sort of running this hit?

10 "A He said, 'What should I do?' I said,
11 'Leave the machine gun and get out of the car.'

12 "Q You weren't running this hit?

13 "A No.

14 "Q You were giving the orders?

15 "A We were all part of it.

16 "Q I didn't ask that. I asked were you
17 Anthony Russo running the hit?

18 "A No.

19 "Q You gave instructions; did you not?"

20 THE COURT: This goes beyond the questions about the
21 ski mask.

22 MS. KEDIA: I'm going to end.

23 THE COURT: No, that's it.

24 MS. KEDIA: There's three more questions.

25 THE COURT: Well go to the ski mask and skip this

Russo - Cross - Kedia

1 other stuff.

2 MS. KEDIA: Yes, Your Honor.

3 "Q Okay, so you didn't know the ski mask
4 was there but it was left in the car?

5 "A He had at a ski mask on. He left it in
6 the car."

7 Do you recall giving those answers to those
8 questions?

9 A I don't remember. I don't recall.

10 Q Now, Mr. Russo, you testified about a number of
11 conversations that you had with Michael Persico regarding Joe
12 Scopo, right?

13 A Excuse me?

14 Q You testified about a number of conversations that you
15 had with Michael Persico regarding Joe Scopo; is that right?

16 A Yes.

17 Q And those are the conversations that you remember having
18 with Mr. Persico?

19 A Which conversations --

20 Q The ones you testified to. Those are the only
21 conversations that you have a recollection of having with
22 Mr. Persico?

23 A About Joe Scopo?

24 Q About Joe Scopo.

25 A Yes.

Russo - Cross - Kedia

1 Q And the conversations occurred over a period of a few
2 weeks or a few months or do you recall?

3 A I don't know. I can't recall exact time frame.

4 Q And the last conversation that you had with Michael
5 Persico before the Scopo murder was this conversation that you
6 testified to about gettin' it done before my brother goes to
7 trial; is that right?

8 A Was that one of the conversations that I had with him?

9 Q Is that the last conversation you had with him before you
10 actually got the job done?

11 A I don't -- I don't remember if that was the last
12 conversation that you're talking about.

13 THE COURT: Well, you mean the last conversation
14 that he had with Michael Persico about the Scopo murder?

15 MS. KEDIA: That's correct, Your Honor.

16 THE COURT: Was that the last conversation that you
17 had with him about the Scopo murder?

18 THE WITNESS: I'm not a hundred percent sure. I
19 know it was one of the last conversations before Joey got
20 killed.

21 Q One of the last ones.

22 And do you recall any others?

23 A No, not really; no.

24 Q Do you recall when the last time it was that you saw
25 Michael Persico before the murder?

Russo - Cross - Kedia

1 A I see Michael a lot.

2 Q You don't recall specifically?

3 A Nah, I don't remember the time frame. The day. The
4 hour.

5 Q Now, Mr. Russo, did Eric Curcio tell you whether he was
6 authorized to kill Joe Scopo?

7 THE COURT: I'm sorry, I missed the first part of
8 the question, can you repeat it? Your voice dropped down a
9 little bit, I couldn't hear it.

10 MS. KEDIA: I apologize, Your Honor.

11 Q Did Eric Curcio tell you whether he was authorized to
12 kill Joe Scopo?

13 A That he was authorized? He never said that word, no.

14 Q Do you know whether this was just something that he was
15 doing on his own with his own crew?

16 A I was told to go see him, so.

17 Was he doing it with his own crew? I don't know.

18 Q Do you know if this was something that Eric Curcio was
19 doing on his own with his own crew?

20 A No, I don't know if he was doing it on his own, no. I
21 don't know if he was authorized. I know he did it.

22 Q Now, at some point, Mr. Russo, I think it was 1994, the
23 summer of 1994, Alphonse Persico comes home; is that right?
24 He gets out of jail?

25 A I guess so, yeah.

Russo - Cross - Kedia

1 Q Well, do you recall?

2 A Yeah. He got out of jail, '94.

3 Q I'm sorry?

4 A Yeah, '94 I came out of jail.

5 Q And Eric Curcio was dying to meet Alphonse Persico; is
6 that right?

7 A Dying to meet him?

8 Q Yes.

9 A Yeah, he really wanted to meet him.

10 Q He really wanted to meet him. He was harassing you to
11 introduce him?

12 A Yes, he was harassing us; yes.

13 Q And he died in October of 1994, right?

14 THE COURT: Who died?

15 MS. KEDIA: I'm sorry.

16 Q Eric Persico was killed in October of 1994?

17 A Was he? In October? That's when he died? I'm not sure
18 of the date he died.

19 Q Okay, he was killed shortly after Alphonse Persico got
20 out of jail?

21 A I guess so.

22 Q And between the time that he died and -- between the time
23 that Alphonse Persico got out and Eric Curcio died, he
24 continually asked you, Anthony Russo, to introduce him?

25 A He asked me, BF, yeah.

Russo - Cross - Kedia

1 Q Now, you testified, Mr. Russo, that you were loan
2 sharking during the 1990s and the 2000s, beginning in the
3 '80s; is that right?

4 A In the '80s? Yeah.

5 Q Yes?

6 A Yes.

7 Q And you testified about getting money from Michael
8 Persico?

9 A Yes.

10 Q And you said in the beginning you paid the interest once
11 every week and after a little while, you paid it every -- the
12 interest once a month; is that right?

13 A Yes.

14 Q Now, did you keep a loan shark book?

15 A Me personally?

16 Q Did you keep a book, yes.

17 A I had a little record, yeah.

18 Q And did you have little record throughout the time that
19 you were loan sharking?

20 You were loan sharking up until the day you got
21 arrested in 2011; is that right?

22 A I wasn't loan sharking when I was in jail for eight
23 years, no. So there was a period when it stopped.

24 Q Okay. So when you were on the street, though, you were
25 loan sharking the entire time period?

Russo - Cross - Kedia

1 A Yes.

2 Q Up until the time that you got arrested in 2011 and began
3 cooperating, right?

4 A Uh-huh. Yes.

5 Q Did you turn over your loan shark book to the government?

6 A No.

7 Q Did you have your loan shark book?

8 A Did I have a loan shark book? I don't know. Yeah, I
9 did.

10 Q Did they --

11 A No, I didn't. I had paper, yeah. I think got ripped up.

12 Q I'm sorry?

13 A It was ripped up and destroyed.

14 Q When was it ripped up and destroyed?

15 A Long time ago. When I got arrested.

16 Q But was it ripped up and destroyed before you got
17 arrested or after you got arrested?

18 A Probably after I got arrested.

19 Q Well after you got arrested, within 20 to 30 minutes, you
20 decided to cooperate; isn't that right?

21 A Right.

22 Q And after you decided to cooperate, you ripped up your
23 loan shark book?

24 A No. No. Not at all.

25 Q Well you just testified --

Russo - Cross - Kedia

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1 A I wasn't there --

2 THE COURT: Wait until he gives the answer. You
3 asked a question.

4 And stop arguing.

5 A No, I did not rip up the book then.

6 It was ripped up later on. While I was in jail.

7 Q Did you ask somebody else to rip it up?

8 A I don't remember. I know it was gone.

9 Q And this is after you agreed to cooperate; is that
10 correct?

11 A Yeah.

12 Q Now, you testified that you borrowed approximately 150 or
13 \$200,000 from Michael Persico; is that right?

14 A Yes. I don't remember exact number.

15 Q Well do you recall testifying at Frank Guerra's trial
16 that you borrowed maybe \$100,000 from Michael Persico?

17 A I don't remember that.

18 Q Do you recall being asked this question and giving this
19 answer at the trial of Frank Guerra.

20 3500AR63, Your Honor, page 259 at the bottom,
21 line 24.

22 "Q And approximately how many money did you
23 borrow from Michael Persico in that time period?

24 "A A hundred, maybe a little more, a
25 hundred thousand."

Russo - Cross - Kedia

1 A Yeah, I said it. A hundred, maybe a little more, a
2 hundred thousand. You just read it to me.

3 Q Yes. And two weeks ago you said it was 150 or 200,000,
4 right?

5 A The same thing. I said a hundred or more.

6 I don't know what you're trying to say.

7 Q I'm sorry go ahead, you want to finish?

8 A I finished.

9 Q When you met with agents back in, when you first started
10 cooperating, do you recall saying that perhaps you borrowed 70
11 to \$80,000?

12 A No, I don't remember that.

13 Q Let me show you what's been marked as 3500AR22, page 80.

14 Mr. Russo, if you could look at this document. And
15 I direct your attention to the loan sharking 1992 to 2000. If
16 you read the first couple of sentences, please, to yourself.

17 (Witness reviewing document.)

18 A I read it.

19 Q Mr. Russo, does that refresh your recollection that you
20 told agents previously that it was between 70 and \$80,000?

21 A That's their -- that's their -- them writing it out, so I
22 don't know if they heard me right or not, so. I didn't write
23 that.

24 Q They might not have heard you right?

25 THE COURT: Will you let him finish. You know what,

Russo - Cross - Kedia

1 I'm going to stop this if you can't wait until he finishes
2 answering.

3 MS. KEDIA: I apologize, Your Honor.

4 THE COURT: All right, I spent the entire morning
5 doing this.

6 Finish your answer, please.

7 A I said that's not my writing so I don't know what they
8 heard. Maybe they heard me wrong, I don't know. I didn't
9 write that down.

10 Q Now, you said, Mr. Russo, that there was a guy by the
11 name of Fat Lenny that you beat up on 13th Avenue. You
12 testified to that on direct examination, right?

13 A Yes, I remember.

14 Q And he owed about \$30,000 to you?

15 A To me and Frankie, yes.

16 Q Do you recall telling agents that you and Frank did not
17 loan more than \$3,000 per customer?

18 A Yes. 5,000.

19 Q I'm sorry? You loaned 5,000?

20 A I didn't know Frankie gave Lenny that money 'til later on
21 when he told me. I got mad at him for lending that kind of
22 money to 'em.

23 Q So you normally only loaned \$3,000 per customer; is that
24 right?

25 A Yeah, around there. Depending on who you were.

Russo - Cross - Kedia

1 Q And so you didn't even know about this loan; is that
2 right?

3 A I knew about it but I didn't know it was that much until
4 later on when he couldn't collect it. So I went and collected
5 it.

6 Q So this wasn't part of what was in your loan shark book?

7 A Was it in my loan shark book?

8 Q Yes.

9 A No.

10 I had 10,000 in there for Lenny.

11 Q Now, you testified about getting arrested in 2000,
12 approximately 1999 or 2000; is that right?

13 A Yeah, around there.

14 Q And you said that you owed Michael some money at that
15 point; is that right?

16 A Yes.

17 Q Do you know how much money you owed at that point?

18 A After I got arrested? I really don't remember exactly,
19 the exact amount.

20 Q Did you forget the exact amount or the approximate amount
21 between the time you testified on direct examination two weeks
22 ago and today?

23 A Well I don't know the question you asked. Did I owe him
24 when I met with him that day and he told me forget about the
25 money? I don't know where you're going.

Russo - Cross - Kedia

1 Q You got arrested in 1999 or 2000?

2 A Yes. Yes.

3 Q Did you owe -- you testified you owed Michael Persico
4 money, right?

5 A Yes.

6 Q I'm asking you how much money you owed?

7 A I think I was saying somewhere around a hundred and
8 change. I don't remember exactly, you know.

9 Q You don't remember two weeks ago saying it was 60 or
10 \$70,000?

11 A A piece. Between the both of you us each, we come out
12 over a hundred thousand.

13 Q Mr. Russo, do you recall discussing monies that were owed
14 to Alphonse Persico with Thomas McLaughlin?

15 A No.

16 Q Do you recall discussing with Thomas McLaughlin that
17 Alphonse Persico -- that you owed Alphonse Persico and that he
18 allowed you not to repay the loan?

19 THE COURT: I'm sorry, can you repeat the question
20 or can you read that question back to me?

21 (Whereupon, the record was read.)

22 THE COURT: Can you rephrase the question.

23 MS. KEDIA: Yes, Your Honor.

24 Q Mr. Russo, do you recall discussing with Thomas
25 McLaughlin money that you owed to Alphonse Persico which

1 Alphonse Persico forgave?

2 A No. But I'm sure you'll remind me. I don't remember.

3 Q Well, let me show you...

4 And I'm marking as Defendant's E and ET.

5 Mr. Russo, perhaps I can first show you the
6 transcript and see if it will refresh your recollection.

7 THE COURT: Can you tell me what this exhibit is,
8 please?

9 MS. KEDIA: Yes, it's a transcript of a conversation
10 between Mr. Russo and Thomas McLaughlin on October 1st, 2009,
11 Your Honor.

12 (Witness reviewing document.)

13 A Okay, I read it.

14 Q You don't recall that, Mr. Russo?

15 A No.

16 MS. KEDIA: Can we play it?

17 Q Mr. Russo, can you put your headphones on so you can hear
18 it?

19 THE COURT: We took the headphones to recharge them.
20 Hang on a second.

21 Okay, if you want to press "play".

22 (Audio recording played.)

23 BY MS. KEDIA:

24 Q Mr. Russo, having heard the recording, does that refresh
25 your recollection that you had this discussion with Thomas

Russo - Cross - Kedia

1 McLaughlin?

2 A I don't remember this whole conversation, no, I don't. I
3 can remember some of these things but not all of them. Some I
4 can't even hear that good. I can read it pretty good.

5 Q I'm sorry?

6 A I said I didn't hear the whole conversation that good but
7 I could read it pretty good.

8 Q But you don't recall it?

9 A I don't recall a lot of this conversation.

10 Q Do you recall -- withdrawn.

11 You testified about a time that you had a load of
12 stolen video games that you were going to buy from some guy
13 named Spider?

14 THE COURT: Can you just clarify which testimony
15 you're talking about, please?

16 MS. KEDIA: Yes, Your Honor.

17 Q You testified on direct examination here that you -- that
18 there was a load of stolen video games that you were going to
19 buy from some guy named Spider; is that right?

20 A Yes.

21 Q And do you recall when that was?

22 A '90s. I don't remember. '95, about '6. I'm not sure.

23 Q When you went on -- after you started cooperating --
24 withdrawn.

25 You testified about putting -- that your plan was --

Russo - Cross - Kedia

1 you didn't end up buying these stolen video games, right?

2 A No.

3 Q But your plan was that you were going to put them in the
4 garage of a bus company in Coney Island that was owned by
5 Michael; is that right?

6 A By Michael the bus company was owned? Yeah, I guess so.

7 Q Well, do you recall testifying --

8 A Yes. Yes.

9 Q Now, when you started cooperating, soon after you started
10 cooperating, you went on a drive around with the agent and you
11 pointed out this garage that you were going to put in -- put
12 this load of stolen video games in.

13 Do you recall that?

14 A Yes.

15 Q And this stolen video games you pointed out an address at
16 27 West -- 2733 West 15th Street.

17 Do you recall that?

18 A Is that the address I pointed out? Yeah. I showed him
19 some place, yes, in Coney Island.

20 Q Well do you recall where you showed him or you don't?

21 A I mean --

22 THE COURT: Do you recall the address?

23 THE WITNESS: No, I don't recall the address, but...

24 Q Let me show you what's previously been marked as
25 3500AR22, pages 90 and 99.

Russo - Cross - Kedia

1 THE COURT: 90? I'm sorry, 90 and?

2 MS. KEDIA: 99.

3 Q Mr. Russo, I'm going to show you page 99 of 3500AR22.

4 Do you recall showing agents this spot, the garage?

5 A It looks like, yes.

6 Q And do you recall -- I'm going to show you page 90,
7 number five.

8 Do you recall that the address of this was 2733 --

9 THE COURT: Does that refresh your recollection is
10 the question.

11 THE WITNESS: Yes. It refreshes. Yes.

12 Q Do you know a person by the name of Emil Caucig?

13 A No.

14 Q Ever heard that name when you were with Michael Persico
15 or with any of the people that you were --

16 A No.

17 Q -- hanging around in 1993, '94, '95, that time period?

18 A What was the name again, Emil?

19 Q Emil Caucig?

20 A No.

21 Q Do you know if he's the person who owned that property?

22 A No, I don't know that.

23 Q From 1980 to 2002?

24 A No, I do not know that.

25 Q Now, Mr. Russo, you testified about a time period that

Russo - Cross - Kedia

1 you got out of jail after serving about seven years or so in
2 the 2000s; is that right?

3 A Yes, I was released in 2007.

4 Q And you were released, in fact, on June 26th of 2007,
5 right?

6 A No, I don't believe it was June 26th.

7 Q You don't believe it was June 26th?

8 A I don't remember. I thought it was July. All right, but
9 you must have the right answer there, not me.

10 Q Let's say approximately June or July is your
11 recollection.

12 A Yeah, around there; yeah.

13 Q And you served about 11 months on supervised release; is
14 that right, you said?

15 A Yes. Yeah.

16 Q So that would have put you off of supervised release in
17 the mid-2008?

18 A November.

19 Q You were off of supervised release in November?

20 A November 2008, yeah.

21 Q So you served more than 11 months of supervised release,
22 Mr. Russo?

23 A I remember getting off in November 2008.

24 Q When you -- after you got out of jail, you said you had a
25 conversation with Andre and Carmine Persico.

1 That's Teddy, Jr.'s brother; is that right?

2 A Carmine, yes.

3 Q And Andre is somebody that's related to them or a friend?

4 A A friend.

5 Q And Andre and Carmine Persico, Jr. told you that you were
6 getting inducted; is that right?

7 A Yes.

8 Q Now, you testified that soon after you got off of
9 supervised release, Michael asked to see you; is that right?

10 A After I was off of supervised release? Yes, I seen
11 Michael.

12 Q You testified that he asked to see you; is that right?

13 A I said, yes, I want to see Michael.

14 Q And you went to see Michael about opening up a business;
15 is that right?

16 A That and other things, yes.

17 Q You went to see him about a construction business; is
18 that right?

19 A Yes.

20 Q And at this point in time, were you contemplating opening
21 up a business with BF, Frank Guerra?

22 A Yes.

23 Q And the reason that you waited 'til you were off parole
24 is because you couldn't see BF until you were off parole; is
25 that right?

Russo - Cross - Kedia

1 A No, I was seeing BF before I was off parole.

2 Q So why did you wait until you were off parole --

3 A Because I couldn't see Michael. He didn't want to see me
4 'til after I got off parole.

5 Q Oh, Michael didn't want to see you?

6 A Yeah.

7 Q Michael and you understood was not -- he had no
8 convictions or anything, right, it wasn't --

9 A No.

10 Q Now, you testified about that there came a point in time
11 where you were, in fact, inducted, correct?

12 A Yes.

13 Q Became a made member of the Colombo family.

14 Do you recall when that was?

15 A Yes.

16 Q When was it?

17 A 2009, February.

18 Q And you opened up a car -- the car detailing business
19 around that same time?

20 A Something. Yeah, some time around there; yeah.

21 Q Well, do you recall when it was?

22 A I'm trying to figure that one out right now.

23 Sometime after that, yeah.

24 Q And you testified about wanting to go into the valet
25 parking business, right?

Russo - Cross - Kedia

1 A Uh-huh.

2 THE COURT: I'm sorry, you need to answer.

3 THE WITNESS: Yes. I'm sorry.

4 A Yes.

5 Q Now, you opened up the car detailing business with your
6 friend Frank Guerra; is that right?

7 A Yes.

8 Q And you -- and you testified about using the garage that
9 was owned by Michael; is that right?

10 A Yes.

11 Q And this was a garage that you rented, right, you had to
12 pay rent?

13 A No, we didn't paid rent after -- in the beginning, no.

14 Q Let me show you AR -- let me ask you this:

15 You didn't pay rent or you don't recall if you paid
16 rent?

17 A We didn't pay in the beginning, no.

18 Q Do you remember telling agents that you paid rent each
19 month?

20 A Yeah, after a couple of months we started paying rent.

21 Q So the first month or two there was no rent; is that
22 right? And then you started paying rent?

23 A Yes.

24 Q How much rent did you pay?

25 A I don't remember.

Russo - Cross - Kedia

1 Q And is this a car detailing business that you had going
2 up until you were arrested in 2011?

3 A Yes.

4 Q Now, when did you try to go into the valet parking
5 business, before you went into the car detailing business or
6 after?

7 A I'm not sure.

8 Q When you testified about going to discuss potentially
9 opening a valet parking business with your friend, Anthony
10 Stropoli; is that right?

11 A Yes.

12 Q And do you recall if it was around the same time frame,
13 years before, years after?

14 A Around the same time frame.

15 Q I'm sorry?

16 A Not years before, around the same time frame.

17 Q And you learned from your friend, Anthony Stropoli, that
18 Anthony Preza was in this valet parking business?

19 A Anthony who?

20 Q Preza.

21 A Preza, that's his last name?

22 Q Well, did you learn that?

23 A Yes.

24 Q Did you know Anthony Preza?

25 A I met him.

1 Q You met him when?

2 A When I came home.

3 Q Did you meet him before you went to talk to him about a
4 valet parking business?

5 A I don't really recall what time about. It might have
6 been the first time. I don't know.

7 Q And during this meeting, you said that Michael Persico
8 was at this meeting; is that right?

9 A In the diner? Yes.

10 Q You say "in the diner."

11 This was a meeting that you had about discussing
12 opening up a valet parking business?

13 A Well, I went there to meet Anthony, yes.

14 Q To get pointers --

15 A Pointers from who?

16 Q Anthony Preza.

17 A Yes.

18 Q Because he was in the business?

19 A Yes.

20 Q And you were offered a percentage for referring customers
21 rather than --

22 A Yes.

23 Q -- rather than starting your own business?

24 A Yes.

25 Q And you declined, right?

Russo - Cross - Kedia

1 A Probably. I don't remember.

2 Q Now, Mr. Russo, you have, as we discussed before, there
3 were a number of conversations that you had between 2009 and
4 2011 with Mr. McLaughlin and Mr. Tagliavia which were recorded
5 by both of those individuals, right?

6 A A lot of conversations.

7 Q And you talked about criminal activity by you and by BF;
8 is that right?

9 A Yes.

10 Q And you talked about criminal activity by Teddy Persico
11 and by Allie Persico, right?

12 A I don't remember if I talked about Ali to anybody about
13 criminal activity. I might have. I don't remember.

14 Q Do you recall telling them about how Anthony Stropoli was
15 acting as a captain for Teddy Persico in the family?

16 A And who was I talking to?

17 Q Thomas McLaughlin and Peter Tagliavia.

18 A Probably, yeah.

19 Q And did you -- and that you were replacing Teddy
20 Persico -- you were replacing Anthony Stropoli as Teddy
21 Persico's acting captain in 2010?

22 THE COURT: Is that the question?

23 MS. KEDIA: Yes, Your Honor.

24 THE COURT: It's not a question, it's a statement.

25 Q When you spoke to -- do you recall speaking to Thomas

Russo - Cross - Kedia

1 McLaughlin and Peter Tagliavia about how you were going to be
2 replacing Anthony Stropoli and Teddy --

3 THE COURT: Is the question whether he actually
4 spoke to them about that?

5 Q Did you speak to them about that? First I can ask you
6 that, sure.

7 A Did I speak to him about me taking over for Anthony?

8 Q Yes?

9 A As acting captain?

10 Q Yes.

11 A Yes, I believe so.

12 Q Did you speak to them about wanting to get your son
13 inducted into the family?

14 A I probably did. Yes.

15 Q Did you speak to them about wanting to go rob millions in
16 a safe from a guy on Todt Hill?

17 A I believe we had a conversation like that, yeah.

18 Q And, Mr. Russo, you spoke to them also about potentially
19 wanting to cooperate; is that right?

20 A I don't remember that.

21 Q Well, do you remember an agent coming to your home about
22 two weeks before you were arrested?

23 A Yes.

24 Q And who was that agent?

25 A Scott Curtis.

Russo - Cross - Kedia

1 Q And do you recall speaking to Mr. McLaughlin and
2 Mr. Tagliavia about Scott Curtis coming to your home?

3 A I remember talking to Tommy about it.

4 Q You don't remember if Mr. Tagliavia was there or not?

5 A No, I don't.

6 Q Do you remember what was discussed?

7 A Not everything, no.

8 Q Did you speak to Mr. McLaughlin about how the agent,
9 Mr. Curtis, told you don't be the fall guy for the Persicos?

10 A I don't remember that exact statement, no.

11 THE COURT: What is the relevance of all this?

12 MS. KEDIA: Judge, if I could ask that the witness
13 be excused, I'll be happy to talk to you about it.

14 THE COURT: Yes, can I just ask you to step out for
15 a minute. We'll call you right back.

16 (Whereupon, the witness left the room.)

17 THE COURT: The witness is no longer present.
18 What is the relevance of all of this?

19 MS. KEDIA: The relevance of this, Your Honor, is
20 this witness' state of mind, which is that he understands --

21 THE COURT: As to what?

22 MS. KEDIA: -- an agent --

23 THE COURT: State of mind as to what?

24 MS. KEDIA: As to the fact that the government wants
25 to get anyone with the last name Persico. Wants to indict

Russo - Cross - Kedia

1 them. Wants evidence on them.

2 THE COURT: So what?

3 MS. KEDIA: It shows --

4 THE COURT: He's already cooperating.

5 MS. KEDIA: No, Judge, this is at a time period
6 before he's cooperating.

7 This is in the weeks before he begins cooperating.
8 He knows who they want him to implicate. That's the
9 relevance.

10 There's specific conversations about Michael Persico
11 and there are conversations about the Persicos in general and
12 how the government and this agent in particular --

13 THE COURT: So you had the conversation between him
14 and the agent about what it is that they discussed. Who cares
15 what he talks about with anybody else?

16 MS. KEDIA: That's fine. I'll ask it that way to
17 begin with, Judge.

18 THE COURT: I mean, you already have
19 cross-examination about the issue in connection with a bunch
20 of different Frankies and Franks all over the place in here.

21 MR. LIFSHITZ: I believe it was Sparaco, Your Honor.

22 THE COURT: Yes, exactly. Sparaco. Exactly.

23 MS. KEDIA: Yes, Judge.

24 THE COURT: So we're there.

25 MS. KEDIA: Yes, Your Honor. That was a

Russo - Cross - Kedia

1 conversation that was had in 2010. We're talking about a
2 conversation that he had just within two weeks of his being
3 arrested and beginning to cooperate.

4 I'm perfectly happy to submit again -- I cannot ask
5 the witness more questions along this line, I can just
6 amend --

7 THE COURT: You know, every other question is: And
8 did you talk to this one? Enough already. There's no jury
9 here.

10 MS. KEDIA: I'm well aware.

11 THE COURT: I think I get the point. Bring the
12 witness in.

13 (Witness resumes the stand.)

14 THE COURT: The witness is back.

15 Welcome back, sir. I'm just going to remind you
16 again that you're still under oath.

17 You may inquiry when you're ready, Ms. Kedia.

18 MS. KEDIA: Thank you, Your Honor.

19 Q Mr. Russo, do you recall discussing with Mr. McLaughlin
20 or Mr. Tagliavia that Mike Persico is a legitimate
21 businessman?

22 A Yes, I think I remember that; yeah.

23 Q And that he's got a lot of legitimate businesses and he
24 just got wrapped up in this because people dropped his name?

25 Do you recall that?

Russo - Cross - Kedia

1 A Not all that I don't remember, but I remember talking
2 about legitimate businesses.

3 Q Do you recall saying that he's truly legitimate and the
4 Feds think he's doing other things but the guy has nothing to
5 do with anything?

6 A I don't recall that.

7 Q Let me show you what I'm marking as Defendant's E and ET.

8 (Continued on next page.)

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THE COURT: You have two Defense Exhibits, D and DT,
I assume D is the audio recording?

MS. KEDIA: D is the audio recording.

THE COURT: You did not move that into evidence, did
you want it to be moved into evidence?

MS. KEDIA: I do, Your Honor.

THE COURT: Any objection to it?

MR. LIFSHITZ: No, Your Honor.

THE COURT: It's D and DT -- well, obviously the
transcript is not evidence, it's --

MS. KEDIA: An aid.

THE COURT: An aid, thank you.

And the same with E and ET?

MS. KEDIA: Yes, Your Honor.

THE COURT: Any objection.

MR. LIFSHITZ: No, Your Honor.

THE COURT: Okay.

(Defense Exhibit D and DT, was received in
evidence.)

(Defense Exhibit E and ET, was received in
evidence.)

MS. KEDIA: Can we play it?

(Audio played.)

RUSSO - REDIRECT - LIFSHITZ

1 BY MS. KEDIA:

2 Q Mr. Russo, was that your voice on that recording?

3 A Yeah.

4 MS. KEDIA: I have nothing further.

5 THE COURT: Why don't we take our mid-afternoon
6 break at this point. We will come back in about 15 minutes.
7 That's about 3:35. And the witness can take a break as well.

8 THE WITNESS: Thank you.

9 THE COURT: Okay.

10 (Recess.)

11 THE COURT: Is the government going to have any
12 redirect examination?

13 MR. LIFSHITZ: Yes, a brief redirect, if I may, Your
14 Honor.

15 THE COURT: Okay, let's bring out the witness.

16 MR. LIFSHITZ: Thank you.

17 THE COURT: Welcome back, sir. This is a Fatico
18 hearing continued, the same appearances as this morning.
19 Mr. Russo is back on the stand.

20 I remind you, sir, that you are still under oath.
21 This is redirect examination by Mr. Lifshitz. You may proceed
22 when you are ready.

23 MR. LIFSHITZ: Thank you, Your Honor.

24 REDIRECT EXAMINATION

25

RUSSO - REDIRECT - LIFSHITZ

1 BY MR. LIFSHITZ:

2 Q Good afternoon, Mr. Russo.

3 A Good afternoon.

4 Q Do you recall being asked on cross-examination about
5 whether you have told lies in your lifetime?

6 A Yes.

7 Q Is it true that before you started cooperating in 2011
8 you told lies?

9 A Yeah.

10 Q After you began cooperating in 2011, did you lie to the
11 government or the Court?

12 A No.

13 Q And after you began cooperating in 2011, what did you
14 think would happen to you if you lied to the government or the
15 Court?

16 A My agreement would be tossed out.

17 Q And what sentence could you face?

18 A Life in prison.

19 Q Do you recall being asked questions on cross-examination
20 about a conversation in which you refer to Michael Persico as
21 legitimate?

22 A Yeah.

23 Q Was it true that Michael Persico had legitimate
24 businesses?

25 A A hundred percent, yeah.

RUSSO - REDIRECT - LIFSHITZ

1 Q Did he also participate in crimes?

2 A Yes, he did.

3 Q Would it have been a good idea for you to discuss Michael
4 Persico's crimes with Peter Tagliavia?

5 A No, not at all.

6 Q Why not?

7 A 'Cause I never would have talked bad about Michael to
8 Peter, he was just my -- he was just around me, he was an
9 associate. He did nothing. He was my driver and he did
10 errands for me. Why would I tell him anything about Michael?

11 Q Who are you referring to when you say "he"?

12 A Peter.

13 Q Thank you.

14 Do you recall being asked on cross-examination about
15 a conversation you had with Frank Sparaco about agents being
16 interested in Michael Persico?

17 A You talking about when I was in prison?

18 Q Yes.

19 A Yes.

20 Q You recall that conversation, correct?

21 A Yes.

22 Q Just to clarify, in that conversation -- strike that.

23 When you testified about that conversation, were you reporting
24 information agents had given to you, or were you reporting
25 what Sparaco had told you agents said to him?

RUSSO - REDIRECT - LIFSHITZ

1 A I was telling him -- I was talking about what Sparaco had
2 told me that the agents told him.

3 Q Do you recall being asked additional questions on
4 cross-examination about whether you believed that the agents
5 wanted you to implicate Michael Persico in crimes?

6 A Did I believe they wanted me to implicate him?

7 Q Do you recall being asked on cross-examination
8 questions --

9 A Yes.

10 Q -- along those lines?

11 After you began proffering with the government in
12 2011, did you provide information only about the Scopo murder
13 or also about other murders?

14 A Other murders.

15 Q Who is Michael Devine?

16 A He was a club owner.

17 Q Did you provide information about what happened to him?

18 A Yes, I did.

19 Q What happened to him as far as you know?

20 A He was killed.

21 Q And as far as you know who killed him?

22 A Frankie Sparaco.

23 Q Did anyone help him?

24 A Yes.

25 Q Who?

RUSSO - REDIRECT - LIFSHITZ

1 A Frankie BF, Robert Tarantola, Fifi that's what I
2 understand.

3 Q How did you come to learn about who participated in that
4 murder?

5 A That I learned through BF.

6 Q Frank Guerra?

7 A Yes.

8 Q Did you tell the government what you knew about that
9 murder?

10 A Yes, I did.

11 Q Did Guerra tell you why they killed Michael Devine?

12 A Yes.

13 Q What did he tell you about that?

14 A Because he was having an affair with Allie Persico's
15 wife.

16 Q Alphonse Persico's wife?

17 A Yes.

18 Q Did you ever tell the government that Michael Persico was
19 involved in that murder?

20 A No, not at all.

21 Q Have you known someone by the name Steve Mancuso or
22 Mancusi?

23 A Yes.

24 Q Who was he?

25 A He was an associate, Colombo family.

RUSSO - REDIRECT - LIFSHITZ

1 Q What happened to him?

2 A He was killed.

3 Q How did you learn about that?

4 A That I learned from Frankie Sparaco, from BF.

5 Q Each of them told you about it?

6 A Yes.

7 Q What's your understanding of what happened to Mancusi?

8 A Frankie killed him.

9 Q Frankie who?

10 A Sparaco.

11 Q Did he tell you why?

12 A He said he was doing something with drugs.

13 Q And is this the Frank Sparaco who you said was a dear
14 friend of Michael Persico?

15 A Yes.

16 Q Did you ever tell the government that Michael Persico had
17 anything to do with that?

18 A No, not at all.

19 Q When you began proffering with the government in 2011,
20 did you provide information only about Michael Persico or also
21 about other people in organized crime?

22 A Everybody, everybody that I had met.

23 Q Did you provide information about anyone in the Colombo
24 family administration?

25 A Yes.

RUSSO - REDIRECT - LIFSHITZ

1 Q Who?

2 A Andrew Russo --

3 Q Who are some of the people you recall?

4 A Andrew Russo, Benji was the underboss, Richie Fusco.

5 Q Did you provide information about any captains to the
6 government?

7 A Yes.

8 Q Who were some of the captains you told the government
9 about?

10 A Lollipop. I don't know his whole name. Dennis DeLuccia,
11 Reynolds. I can't think offhand right now.

12 Q Did you provide information about Teddy Persico?

13 A Yes.

14 Q What was his position in the Colombo family?

15 A He was a captain.

16 Q Did you provide information about any soldiers in the
17 Colombo family?

18 A Yes, a lot of them, yes.

19 Q Who were some of the soldiers you recall providing
20 information about?

21 A Well, Joey Savarese, Larry, John Maggio, Manny, I don't
22 know his last name, Danny Capalbo.

23 Q Did you provide information about any people you
24 understood to be associates of the Colombo family besides
25 Michael Persico?

RUSSO - RE CROSS - KEDIA

1 Q And the two of you were -- I'm sorry, the three of you
2 were around each other all the time talking about criminal
3 activity --

4 A A lot.

5 Q -- between 2009 and 2011 --

6 A Yes.

7 Q -- right?

8 Do you know how many recordings Peter Tagliavia and
9 Tommy McLaughlin made of you talking about the criminal
10 activity --

11 THE COURT: Sustained. Beyond the scope.

12 Q Mr. Russo, you testified about all kinds of people
13 committing crimes, you discussed all kinds of people
14 committing crimes with the two of them, right? Yourself, is
15 that right?

16 A Yes.

17 MR. LIFSHITZ: Objection to form.

18 THE COURT: Sustained.

19 Q Mr. Russo, did you discuss --

20 THE COURT: Keep in mind that your cross-examination
21 is restricted to what was discussed on redirect.

22 MS. KEDIA: I understand, Your Honor.

23 Q Mr. Russo, did you discuss with Peter Tagliavia and Tommy
24 McLaughlin criminal activity that you and many, many other
25 people committed?

RUSSO - RECROSS - KEDIA

1 A Yes.

2 Q And you even discussed the Scopo murder, didn't you?

3 A I believe so, yes.

4 Q In fact, you discussed being involved in it, with Guerra
5 right, Frank Guerra?

6 A Yes.

7 Q Who was at the time your best friend --

8 A Uh-huh.

9 Q -- is that right?

10 A Yes.

11 Q You do recall that?

12 A Yes.

13 MS. KEDIA: Thank you. I have nothing further.

14 THE COURT: Anything further on redirect?

15 MR. LIFSHITZ: No, thank you, Your Honor.

16 THE COURT: Thank you, sir, you may step down.

17 You're excused.

18 (Witness excused.)

19 THE COURT: The witness is no longer in the room,
20 does the government have any other additional evidence to
21 present today?

22 MR. LIFSHITZ: Your Honor, just the evidence
23 referred to in our letter.

24 THE COURT: Let's discuss these letters that came at
25 the 11th hour yesterday, despite the fact we had a two-week

RUSSO - RECROSS - KEDIA

1 hiatus from when you broke from this hearing the last time.

2 I gather that the defense saw the filing that was
3 made by the government yesterday, correct?

4 MS. KEDIA: Yes, Your Honor, we did.

5 THE COURT: So what's your position on the
6 government's request.

7 MS. KEDIA: Your Honor --

8 THE COURT: If you could sit and speak into the
9 microphone.

10 MS. KEDIA: Certainly.

11 THE COURT: We could hear each other a lot better.
12 That would be great, thank you.

13 MS. KEDIA: Your Honor, I had prepared a number of
14 exhibits that I intended to introduce through the agent and
15 cross examine him about, I don't know that that is necessary
16 that I need to actually cross examine Mr. Adam about them, but
17 there are a number of exhibits that I would like to also
18 submit to the Court if the Court is amenable to that.

19 Our thought is -- obviously, there are a number of
20 exhibits that I need to explain the import of to the Court, so
21 I had discussed this with the government after seeing its
22 letter that it submitted yesterday and our thought was that we
23 would submit briefs explaining the import of the various
24 exhibits that we would like the Court to consider in making
25 its determination. And if the Court is amenable to that we

RUSSO - RECROSS - KEDIA

1 will just do it in a submission in which case I don't have an
2 objection to the government simply submitting the evidence
3 rather than calling the agent.

4 THE COURT: How are we supposed to know what the
5 significance of any of this is without having a live body to
6 talk about it --

7 MR. LIFSHITZ: Your Honor, first of all --

8 THE COURT: -- besides having the lawyer's
9 interpretation about it? I mean that has about the same kind
10 of help as what the parties did in their previous submissions
11 attaching transcripts from the Guerra trial and then arguing
12 credibility of the witness. I have to see the witness to
13 determine credibility.

14 There's a certain level of sloppiness with which I
15 am not willing to abide on both sides for the sake of
16 expediency of the parties.

17 That still doesn't tell me where you stand,
18 Ms. Kedia, with respect to the government's request.

19 MS. KEDIA: Your Honor, I don't object to the
20 government --

21 THE COURT: Sit. Why do I have to keep repeating my
22 instructions to people --

23 MS. KEDIA: I apologize.

24 THE COURT: -- for God's sake.

25 MS. KEDIA: Your Honor, I don't have a problem with

RUSSO - RECROSS - KEDIA

1 the government's suggestion that we do this by submission
2 rather than by calling the agent, however, if the Court is not
3 accepting of that, I am perfectly happy for the agent to be
4 called and cross examine the agent about this.

5 MR. LIFSHITZ: Your Honor, may I be heard briefly?

6 THE COURT: Yes.

7 MR. LIFSHITZ: First of all, I'm sorry for the late
8 submission. The exhibits that we are referring to in our
9 submission are largely surveillances that were conducted in
10 the 1990s. Our original thought was to put them in through
11 our case agent, he was not the case agent at the time, he
12 could say these were exhibits admitted in the Guerra trial and
13 we could have read out loud portions of the testimony.

14 THE COURT: He wasn't the agent at the time.

15 MR. LIFSHITZ: Correct, Your Honor.

16 THE COURT: Where is the agent who was the agent at
17 the time?

18 MR. LIFSHITZ: Your Honor, we were never intending
19 to call all the agents from the 1990s to put in the
20 surveillances at the Fatico hearing.

21 THE COURT: How is the case agent who you are
22 planning to call qualified to talk about any of this?

23 MR. LIFSHITZ: Well, Your Honor, that's my point.
24 Having him direct and --

25 THE COURT: Are the other agents alive?

RUSSO - RECCROSS - KEDIA

1 MR. LIFSHITZ: Yes.

2 THE COURT: Are they still working for the bureau?

3 MR. LIFSHITZ: Some are, some aren't. A lot of them
4 are retired NYPD detectives. Your Honor, for the sake of the
5 Fatico hearing we weren't intending to try the entire Scopo
6 murder. We've provided the defense along time ago with the
7 list of our witnesses, which was always Anthony Russo and
8 Agent Adam. There was never any objection to us putting in
9 exhibit through the agent.

10 THE COURT: How is the agent familiar with any of
11 the exhibits?

12 MR. LIFSHITZ: By virtue of being the case agent on
13 the Guerra trial. He doesn't have personal knowledge about
14 the surveillances that were conducted in the 1990s.

15 THE COURT: Did he testify in the Guerra trial?

16 MR. LIFSHITZ: Not about these exhibits.

17 THE COURT: I'm not saying that you have to try the
18 entire Scopo murder here, but to the extent that you want to
19 provide any corroboration of the witness who just testified,
20 then I need to have some indicia of reliability.

21 So you've got a picture that allegedly depicts the
22 defendant that was taken what, 13 years ago, and I'm supposed
23 to, based on my looking at Mr. Persico now, be able to tell
24 that that indeed is the person in the picture. I don't know
25 what the quality of the surveillance picture is. I don't know

RUSSO - RE CROSS - KEDIA

1 what's in there other than whatever is in some log entry.

2 MR. LIFSHITZ: Your Honor, with respect to that one,
3 the agent who took the picture I believe identified him as an
4 unidentified male.

5 THE COURT: Exactly my point. Which you say is that
6 the unknown man, the younger of the two, is the defendant.

7 MR. LIFSHITZ: That's our argument, Your Honor.
8 There is not a live witness who could prove to you that it is.
9 We're asking the Court to look at the picture and reach that
10 conclusion but that's all we can do with that one. So having
11 Agent Adam testify about it wouldn't advance the ball.

12 THE COURT: So with respect to the 1997
13 surveillance, why couldn't you have shown -- if there was no
14 contesting the foundation for the exhibit by the defense, why
15 couldn't you have shown that through Mr. Russo? Because
16 apparently he's one of the people depicted in the video. He
17 would have been qualified to testify about who was in that
18 picture and where they were and everything else.

19 MR. LIFSHITZ: Your Honor, we generally don't put in
20 recordings, audio or video, through a witness who didn't make
21 them because we don't want him to be accused of conforming
22 testimony to fit evidence that was gathered outside of him.

23 THE COURT: But you don't want to put the agents on
24 either.

25 MR. LIFSHITZ: That would turn this into a very long

RUSSO - RECROSS - KEDIA

1 proceeding. I don't think --

2 THE COURT: You know what? I don't care if it takes
3 two weeks. I am the trier of fact here. I am the one who is
4 going to sentence Mr. Persico. I do not appreciate the
5 attempt of the parties to pidgeon hole me into only
6 considering the sentencing guidelines, which were made
7 advisory over 11 years ago. Because that's what's happening
8 here. And both sides are just as guilty.

9 At this stage of the game, whatever reasons you may
10 have for not presenting the video through the witness who was
11 just here, really are of no moment because you could have just
12 put it on at the end of his testimony. We could have arranged
13 that and then they could have opened up cross-examination
14 based on just this. There is nobody then available to explain
15 to me what that video is about.

16 MR. LIFSHITZ: Your Honor, there was testimony about
17 that video in Guerra. There was no objection to that video
18 and I don't believe there's any objection to it here. The
19 video depicts three people and the witnesses at Guerra said
20 they are --

21 THE COURT: So is the defense not objecting to that
22 testimony even though the defendant was not present at the
23 trial and did not have any opportunity to cross examine the
24 witnesses?

25 MS. KEDIA: Your Honor, I apologize for this but the

RUSSO - RECROSS - KEDIA

1 only way I can answer that question is to say I don't object
2 to the government making submissions to the Court if both
3 parties are given the opportunity to explain their various
4 submissions. I understand the Court's position completely and
5 certainly if the Court wants the witnesses to be called for
6 each of these, we'll be prepared to cross examine each of the
7 witnesses, otherwise we can do it as the government has
8 suggested, that's entirely up to the Court. I...

9 (Continued on the next page.)
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PROCEEDINGS

1 THE COURT: So let's move on to the defendant's
2 proposed testimony. What is the relevance of the testimony of
3 these different people that are on the defendant's letter?

4 MS. KEDIA: Your Honor, with respect to -- and I
5 apologize, I don't even have the letter in front of me.

6 THE COURT: Oh, geez Louise. The testimony of Dino
7 Basciano, all of these were at the Guerra trial. Testimony of
8 Dino Basciano, Joseph Iborti.

9 Is it Matthew or Matthe?

10 MS. KEDIA: Matthew, I believe, Tormey.

11 THE COURT: Matthew with a "W" at the end. There's
12 a typo. Tormey. And Michelle Fama.

13 What is the relevance? What are they testifying
14 about?

15 MS. KEDIA: Your Honor, Dino Basciano testified at
16 the Guerra trial that, as he understood it, Eric Curcio
17 received a message from his uncle at the MCC within two weeks
18 of the murder of Joseph Scopo that it was his uncle that, in
19 fact, ordered the murder and it just began in the two weeks
20 prior to the murder.

21 He also testified that he had weapons, a significant
22 number of weapons, that he sold including ones exactly like
23 the MAC-10 and the silencer that were found at the scene.
24 That's the primary significance.

25 THE COURT: You're talking about a portion of the

PROCEEDINGS

1 testimony?

2 MS. KEDIA: Yes. I'm talking about what we believe
3 to be the relevant portion of the testimony. Dino Basciano
4 didn't testify about Michael Persico in any way. I don't
5 believe that Michael's name was mentioned during his
6 examination. The relevance of his testimony is that if, in
7 fact, he is to be believed and the order came from the uncle
8 two weeks before --

9 THE COURT: So how am I supposed to test the
10 credibility of these witnesses?

11 MS. KEDIA: Judge, if the Court would prefer that we
12 call them, we can certainly call them.

13 THE COURT: Based on a cold record?

14 MS. KEDIA: I understand the Court's position,
15 Judge. I understood that the government wanted to do this by
16 submission, and I didn't understand that the Court had any
17 objection to that prior to this.

18 THE COURT: Well, how could I say it when you submit
19 this in the afternoon the day before the hearing?

20 MR. FERNICH: Your Honor, could I be heard for just
21 a second?

22 THE COURT: No. You know what, this is triple
23 teaming. I thought that Mr. Sercarz was going to take charge
24 of this hearing, and I've heard from everybody but him except
25 for one objection today. Get the story straight.

1 How am I supposed to judge the credibility of these
2 witnesses, not to mention the relevance of all of this?

3 Go ahead, Mr. Fernich, go ahead.

4 MR. FERNICH: Judge, under Chapter 6 of the
5 guidelines and voluminous case law from our circuit and the
6 Supreme Court --

7 THE COURT: Of which none was cited at all. At
8 least the government made an attempt to make argument.

9 MR. FERNICH: Well, your Honor, there's no limit on
10 the source or type of the material that the Court can consider
11 at sentencing.

12 THE COURT: I agree.

13 MR. FERNICH: Right. And with regard to the
14 testimony that was cross-examined at the Guerra trial, your
15 Honor can ascribe such weight as you think --

16 THE COURT: I wasn't the judge who presided at the
17 trial.

18 MR. FERNICH: Yes, ma'am, I understand that. I'm
19 not asking you to make a credibility determination with
20 respect to the testimony that was given in Guerra's trial, but
21 your Honor could consider that material in assessing the
22 credibility of the witness who testified before you today and
23 whether that --

24 THE COURT: How? I haven't had an opportunity to
25 see the witness testify.

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1 MR. FERNICH: Ma'am, you heard Russo testify
2 today --

3 THE COURT: That's right, but I haven't heard any of
4 these other people testify.

5 MR. FERNICH: Well, your Honor then could ascribe
6 the Guerra testimony such weight, if any, as the Court feels
7 it deserves with regard to making an assessment of the
8 credibility of Russo, that's all, under Chapter 6. It's your
9 Honor's prerogative to give it, again, such weight as the
10 Court feels it deserves, if any. And if the Court is of the
11 view that it's not worth anything in determining Russo's
12 credibility, your Honor could also make that determination as
13 well.

14 We're just proffering it, you know, for what it's
15 worth in terms of this Fatico hearing. It's not our burden to
16 go forward anyway, but in the nature of extrinsic impeachment,
17 let's say, your Honor could also consider that examination in
18 addition to the cross-examination that was elicited today in
19 the mix of factors relevant to Russo's credibility.

20 And if the Court deems it unworthy of any weight
21 with regard to the witness's credibility, I understand that as
22 well.

23 THE COURT: And what is the testimony of Joseph
24 Iborti?

25 MS. KEDIA: Joseph Iborti similarly testified that

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1 he understood that the order came in the days before the Scopo
2 murder to the extent that there was any kind of an order. And
3 that Eric Curcio did this based on that, meaning, committed
4 the Scopo homicide based on that. His testimony also
5 conflicts with Russo in other ways.

6 As I understand it, your Honor, with respect to a
7 credibility -- I understand that your Honor would like to see
8 the witnesses. I will say this: These are government
9 witnesses that they called at the Guerra trial.

10 THE COURT: I don't care who called them.

11 MS. KEDIA: I understand that.

12 THE COURT: It doesn't matter to me.

13 MS. KEDIA: They had cooperation agreements with the
14 government that were --

15 THE COURT: But Mr. Persico wasn't the person on
16 trial.

17 MS. KEDIA: I understand that.

18 MR. LIFSHITZ: Your Honor, may I be heard on those
19 two witnesses, at least Basciano and Iborti?

20 THE COURT: Yes.

21 MR. LIFSHITZ: My understanding is the purpose
22 defense has in putting in their testimony is largely the
23 absence of reference to Michael Persico.

24 THE COURT: But that's my point. So there's no
25 reference to Michael Persico. Michael Persico wasn't on trial

PROCEEDINGS

1 so I don't see why the government would have the necessity to
2 ask about Michael Persico necessarily.

3 MR. LIFSHITZ: That's correct. But those witnesses
4 had information from a limited source which was largely Eric
5 Curcio. So we don't dispute that they did not have knowledge
6 about Michael Persico's role in the murder. And that's why we
7 certainly do not object to their testimony being presented on
8 paper because we're not going to elicit admissions from them
9 about Michael Persico. They don't know him to be involved in
10 the Scopo murder.

11 THE COURT: What about the testimony of Matthew
12 Tormey? I mean, it would have been helpful if you could have
13 in your submission instead of just listing all this different
14 testimony said what it was, gave me some sort of a proffer as
15 to what it was about instead of just giving me a laundry list.

16 MS. KEDIA: I understand, Judge. I apologize.

17 THE COURT: So I'm pulling teeth now. So what is
18 Tormey's testimony?

19 MS. KEDIA: Your Honor, if I might just get my
20 reference to Tormey's testimony.

21 (Brief pause.)

22 THE COURT: You should be prepared to address this
23 like now.

24 MS. KEDIA: Your Honor, I understand. I was not
25 intending to address this in this fashion. I believed that we

PROCEEDINGS

1 would be calling an agent today and cross-examining --

2 THE COURT: I don't care. You have to have a basis
3 and know what it is in that testimony that is relevant.

4 (Brief pause.)

5 THE COURT: Any day now.

6 MS. KEDIA: Yes, Judge. I apologize. Just a
7 moment.

8 (Brief pause.)

9 MS. KEDIA: Mr. Tormey was the case agent between
10 1995 and 1999 who was involved in investigating the murder of
11 Joseph Scopo. He had information about -- from various
12 sources about the murder. Those sources implicated John
13 Pappa, Anthony Russo, Frank Guerra, John Sparacino and Eric
14 Curcio, as I understand it, and did not implicate Michael
15 Persico.

16 THE COURT: And Michelle Fama.

17 MS. KEDIA: Michelle Fama testified as an alibi
18 witness at the Guerra trial.

19 THE COURT: Alibi for who?

20 MS. KEDIA: For Mr. Guerra. She said that he was
21 not present on the night of the murder.

22 THE COURT: How is that relevant?

23 MS. KEDIA: Because it contradicts Mr. Russo's
24 testimony, your Honor. I intended to submit to the Court a
25 recording --

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1 THE COURT: Was Mr. Guerra found guilty of the Scopo
2 murder or not?

3 MR. LIFSHITZ: He was not found not guilty at trial,
4 and Judge Townes subsequently found at sentencing that he
5 participated in it.

6 THE COURT: I don't care about the Michelle Fama
7 testimony.

8 What is this government chart at a Pappa trial?
9 About what?

10 MS. KEDIA: Your Honor, this is the government's
11 theory of the Pappa trial about how this murder took place
12 based on the witnesses that were cooperating at the time and
13 the investigation of the agents at the time.

14 THE COURT: When did this trial occur?

15 MS. KEDIA: In 1999, your Honor. And the government
16 submitted that the order to kill Joseph Scopo was given in the
17 two weeks prior to the Joseph Scopo murder by his uncle and
18 other people not affiliated -- not Mr. Michael Persico, by an
19 uncle and other people at the MCC. They also submitted that
20 the car that Mr. Russo used in the murder was stolen the night
21 before the murder.

22 THE COURT: Which car are you talking about?

23 MS. KEDIA: The car that was used on the night of
24 the murder.

25 THE COURT: The car that was used by whom?

PROCEEDINGS

1 MS. KEDIA: By Mr. Russo, the stolen car, your
2 Honor.

3 THE COURT: Well, that's prior to Mr. Russo even
4 cooperating.

5 MS. KEDIA: Yes, it is, your Honor. But in any
6 event, Mr. Russo has testified both at the Guerra trial --

7 THE COURT: Which occurred after 2011.

8 MS. KEDIA: Right. He testified at the Guerra
9 trial that the car was stolen several weeks before the murder
10 and was used in numerous surveillances and attempts to kill
11 Mr. Scopo. That's contrary to the stipulation that the
12 government entered into during the Pappa trial and contrary to
13 other witnesses that were called at the Pappa trial.

14 THE COURT: And the government's Giglio letter from
15 June 1, is it from this case?

16 MS. KEDIA: It is from this case, your Honor.

17 THE COURT: What's the docket entry number? Was it
18 filed?

19 MS. KEDIA: I don't believe that it was filed.

20 THE COURT: And Giglio letter as to whom?

21 MS. KEDIA: Giglio letter as to many witnesses.
22 But for the Court's consideration, my primary issue was to
23 submit the Giglio material with respect to Anthony Russo. The
24 government has numerous sources that has informed it, but
25 Anthony Russo participated in multiple murders, not just the

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1 one that he claims now to have participated in. And also has
2 advised that on multiple occasions he threatened his ex-wife,
3 Michelle Fama, who testified as an alibi witness, threatened
4 to kill her even on one occasion. And I was intending to
5 submit along with that a recording to the Court --

6 THE COURT: That's not mentioned in your letter.

7 MS. KEDIA: No, your Honor. The letter was not -- I
8 apologize. The letter was not intended to be a submission to
9 the Court about what --

10 THE COURT: Then why file it on ECF? If it was not
11 meant to be a submission to the Court and if it's not meant to
12 require action by the Court, then you don't need to file it on
13 ECF.

14 MS. KEDIA: That's fine, Judge. Some judges would
15 like us to file all of our correspondence with each other on
16 ECF. And that's been our practice when the case --

17 THE COURT: That's not my practice.

18 MS. KEDIA: I understand that, but I didn't know
19 that prior.

20 THE COURT: Well, a simple inquiry would have
21 sufficed, no, to find out?

22 MS. KEDIA: Yes, Judge. I was just responding to
23 the government's letter that it had filed on ECF.

24 THE COURT: What is this discovery letter in the
25 Russo case? I imagine that that also was not docketed.

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1 MS. KEDIA: I believe that that was docketed in
2 Mr. Russo's case. I don't know that it was docketed in --

3 THE COURT: In this docket number? In this docket?

4 MS. KEDIA: No, your Honor.

5 THE COURT: A separate docket?

6 MR. LIFSHITZ: Russo's docket is 11-CR-30. It's
7 Judge Matsumoto's case. And I do believe the letter was
8 docketed in that case.

9 THE COURT: Okay. So it would have been nice to
10 have the docket number and the docket entry number in the
11 letter.

12 MS. KEDIA: I understand that, Judge. Again, I
13 apologize. This letter was really for the government. It
14 wasn't for the Court. I wasn't trying to explain to the Court
15 the relevance of this --

16 THE COURT: Okay. Enough of your excuses.

17 How long is it going to take each of you to provide
18 submissions and to provide what are going to be voluminous
19 exhibits? Because, quite frankly, I think bringing the
20 witnesses in would have been far faster than having to review
21 all of this cold.

22 MR. LIFSHITZ: Your Honor, I discussed this with
23 Ms. Kedia earlier in the day. We'll present our joint
24 proposal.

25 We were proposing to submit complete post-hearing

PROCEEDINGS

1 briefs arguing the credibility of Anthony Russo and submitting
2 these exhibits that we would submit corroborate them, and they
3 would submit contradiction, we would ask to do that in about
4 four weeks and to respond --

5 THE COURT: No, no, that's ridiculous. You've had
6 all of this stuff. You've had all of this for years, for
7 years. I was expecting to have the hearing done by tomorrow
8 so that we could move forward with sentencing on this case --
9 a decision and sentencing on this case.

10 This is going to be rather voluminous so it's going
11 to take you four weeks to put this together. I assume that
12 you're going to want to respond to each other's arguments,
13 correct?

14 MR. LIFSHITZ: Yes, your Honor. We can do it as
15 quickly as the Court wants. Frankly, the part that will take
16 longest is just getting the transcript of Russo's
17 cross-examination and making our arguments about that. We can
18 certainly make submissions about these exhibits very quickly,
19 as quickly as the Court would like.

20 THE COURT: It will be a simultaneous briefing
21 schedule. So both the government's and defendant's initial
22 submissions by September 21.

23 How long for a response?

24 MR. LIFSHITZ: One week, your Honor.

25 THE COURT: Ms. Kedia?

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1 MS. KEDIA: I think that's fine, your Honor. One
2 week would be fine.

3 THE COURT: Do not forget that I require two
4 courtesy copies of all your submissions.

5 And on that note, I haven't gotten a single courtesy
6 copy from the defense until my deputy has gone and chased
7 after it. I did not get a courtesy copy of this filing on
8 ECF.

9 I also have not gotten a courtesy copy of any
10 objections or non-objections from defendant to the presentence
11 report even though I specifically requested that. My deputy
12 had to go and chase it down and ask for it to be brought in
13 today, which apparently it was done.

14 MR. FERNICH: It's my fault, your Honor. I
15 apologize. We do not have any further objections to --

16 THE COURT: I don't care. I made it very clear that
17 if there were no objections to the presentence report, that a
18 letter had to be written to probation and that I should get a
19 copy of it.

20 MR. FERNICH: Yes. And I take responsibility.

21 THE COURT: And it was in the minute entry order.

22 MR. FERNICH: You are correct, and it's my fault.

23 MS. KEDIA: Your Honor, in addition to two hard
24 courtesy copies, would your Honor like the exhibits on a disk
25 as well or in any other format, electronic format?

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1 THE COURT: I want -- no. I want them in hard copy.

2 MS. KEDIA: That's fine, Judge. I just wanted to
3 check.

4 THE COURT: I'll tell you what, give me one hard
5 copy of the exhibits and one disk copy, okay. Law clerks like
6 the disk. I like the hard copy.

7 MS. KEDIA: The exhibits are voluminous; that's why
8 I asked.

9 THE COURT: If you could make it a searchable PDF,
10 that would be a great help.

11 MS. KEDIA: Judge, I believe that we can make most
12 of the documents a searchable PDF. There are, for example,
13 certified copies of property documents that will not be
14 searchable, but they are very short.

15 THE COURT: I'm more interested in the transcripts
16 and the longer documents being in a searchable PDF.

17 MS. KEDIA: Certainly, Judge.

18 Judge, I do have one very brief witness that I could
19 call as well.

20 THE COURT: Now?

21 MS. KEDIA: Yes.

22 THE COURT: Yeah. Go ahead.

23 MS. KEDIA: Your Honor, I neglected, I think, I'm
24 not sure if I neglected to move into evidence Defense Exhibits
25 A and B that I had marked.

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1 THE COURT: They were moved into evidence.

2 MS. KEDIA: Okay. Very good.

3 THE COURT: A, B, C, D and E and the transcripts
4 are, of course, aids.

5 MS. KEDIA: Thank you.

6 (Witness enters the courtroom.)

7 THE COURTROOM DEPUTY: Please raise your right hand,
8 sir.

9 (Witness takes the witness stand.)

10 RONALD J. DWYER, called as a witness, by the Defendant, having
11 been first duly sworn/affirmed, was examined and testified as
12 follows:

13 THE COURTROOM DEPUTY: Please be seated.

14 Please state and spell your name.

15 THE WITNESS: Ronald Dwyer, D-w-y-e-r.

16 THE COURT: I'm sorry. It's Ronald?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Dwyer, D-w-y-e-r?

19 THE WITNESS: That's correct.

20 THE COURT: Thank you. I'm just going to -- good
21 afternoon, sir. I'm just going to ask you to speak slowly in
22 a nice, loud, clear voice and you can adjust the microphone as
23 you -- to make it comfortable for you. There's water there
24 for you. Just be careful with the pitcher.

25 You may inquire when you're ready.

Russo - Direct - Kedia

1 DIRECT EXAMINATION

2 BY MS. KEDIA:

3 Q Good afternoon, Mr. Dwyer.

4 A Good afternoon.

5 Q Mr. Dwyer, how are you employed?

6 A I'm a private investigator.

7 Q And were you previously employed with the New York Police
8 Department?

9 A Yes, I was.

10 Q For how long?

11 A Ten years.

12 Q And since then, have you been working as a private
13 investigator?

14 A Yes. About the last 23 years.

15 Q I'm going to show you what has been marked collectively
16 as Defendant's F.

17 Mr. Dwyer, do you recognize those photographs?

18 A Yes. These are printouts of photos I took last Friday.

19 Q And what address are those photographs of?

20 A 1378 East 72nd Street in Brooklyn.

21 THE COURT: Okay. I'm sorry, but you need to
22 individually mark these as F-1, F-2, F-3 so we can keep track
23 of what they are.

24 MS. KEDIA: I will.

25 THE COURT: You should have had these marked before

Russo - Direct - Kedia

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1 coming here.

2 (Brief pause.)

3 Q Mr. Dwyer, this home at 1378 East 72nd Street, did you
4 walk around it, drive around it? What did you do?

5 A I drive past it, parked my car and then walked around the
6 front. Walked to both sides without necessarily going on the
7 property but could view both sides.

8 And then I also walked around the back of the house.
9 There's a street right behind the house that is adjacent to a
10 six-foot cement wall that is there so I could see the back of
11 the house as well.

12 Q And Mr. Dwyer, did you look around the house, the
13 exterior of the house, closely when you visited it and took
14 these photographs?

15 A Yes, I did.

16 Q Are there any exterior stairs going up to the home
17 of -- going up to this home?

18 MR. LIFSHITZ: Objection to relevance, your Honor.

19 THE COURT: Yes. What is the relevance of all of
20 this?

21 MS. KEDIA: Your Honor, this was Mr. Scopo's home
22 in Brooklyn at the time that Mr. Russo testified that he
23 attempted to kill him. He testified --

24 THE COURT: How would this witness know that?

25 MS. KEDIA: He doesn't know that, your Honor. He

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1 is simply saying that this was --

2 THE COURT: How do you know that?

3 MS. KEDIA: Because I have property deeds showing
4 this was Mr. Scopo's home --

5 THE COURT: How do you know that's the condition of
6 the home at the time?

7 MS. KEDIA: It was built in 1985, your Honor.

8 THE COURT: How do you know that was the condition
9 of the home at the time?

10 MS. KEDIA: I have property deeds showing --

11 THE COURT: How do you know that that was the
12 condition of the home at the time?

13 MS. KEDIA: Your Honor can take it for what it's
14 worth. I don't know that this was the precise condition of
15 the home. We can show that there are no exterior stairs. If
16 your Honor looks at the photographs, I don't see how you could
17 think that there would have been exterior stairs in the past.

18 THE COURT: You have no idea what the condition of
19 the home was 20 years ago.

20 We're done. Thank you, sir. You can step down.
21 (Witness exits the courtroom.)

22 THE COURT: Anything else for today?

23 MR. LIFSHITZ: Not from the government.

24 MS. KEDIA: No, your Honor.

25 THE COURT: I'm going to put this on for sentence

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1 for November 2nd. The briefing on the Fatico issue will be
2 complete by September 28th. Defendant's sentence memorandum
3 will be due November 12th.

4 THE COURTROOM DEPUTY: Do you mean October 12th,
5 Judge?

6 THE COURT: I'm sorry. I mean October 12th. And
7 the government's sentencing memorandum will be due on November
8 19th.

9 MR. SERCARZ: October 19th, your Honor?

10 THE COURT: October 19th. I'm sorry. I'm saying
11 November. Thank you.

12 MR. FERNICH: Could I ask, your Honor, what time on
13 November 2? I just have another appearance.

14 THE COURT: 2 o'clock. Is that good?

15 MR. FERNICH: Yes, Judge.

16 THE COURT: Do you want it a little later than that?

17 MR. FERNICH: 2:00 should work, your Honor. It's
18 in this courthouse. I thank you.

19 THE COURT: Want to make it 2:30 to be on the safe
20 side?

21 MR. FERNICH: Yes. That would be fine. Thank you
22 very much.

23 THE COURT: Okay. Is that still good for the
24 government?

25 MR. LIFSHITZ: Yes, your Honor.

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1 THE COURT: Okay. I always have probation here so
2 we'll double-check and make sure that that's a good time for
3 probation as well. At 2:30 p.m.

4 And any -- also if you could make sure to copy
5 probation on your sentencing -- I'm sorry. Not only on your
6 sentencing memorandum, but also on your Fatico submissions. I
7 leave it up to probation if they want to have a disk for the
8 exhibits. That's entirely up to them how they want to have
9 the exhibits. And any addendum from probation by October 26.
10 And that would include any addendum with respect to Fatico.

11 All right. Anything else that the parties want to
12 address today?

13 MR. LIFSHITZ: Not from the government.

14 THE COURT: Anything else?

15 MS. KEDIA: No, your Honor.

16 THE COURT: All right. Thank you.

17 (Time noted: 4:50 p.m.)

18 (Proceedings concluded.)
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CLOSED, MJSELECT

**U.S. District Court
Eastern District of New York (Brooklyn)
CRIMINAL DOCKET FOR CASE #: 1:92-cr-00351-DGT-11**

Case title: USA v. Orena, et al

Date Filed: 04/01/1992

Magistrate judge case numbers: 1:92-mj-00400

Date Terminated: 08/15/1994

1:93-mj-00689 5 Related

Assigned to: Judge David G. Trager

Defendant (11)**Alphonse Persico***TERMINATED: 08/17/1994**also known as**"Allie Boy"*represented by **Barry Levin**

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100 Park Avenue

New York, NY 10017

212-687-5700

*TERMINATED: 08/17/1994**LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: Retained***Pending Counts**

None

Disposition**Highest Offense Level (Opening)**

None

Terminated Counts**Disposition**

18:1962 (c) and 3551 et seq.____
MURDER, SECOND DEGREE
(1)

18:1962(c) and 3551 et seq.
RACKETEERING
(1s)

The defendant was found no guilty to any charges in the indictment.

18:1962 (d) and 3551 et seq.____
INTERSTATE COMMERCE
(2)

18:1962(d) and 3551 et seq.
RACKETEERING
(2s)

The defendant was found no guilty to any charges in the indictment.

18:1959 (a)(1), 2 and 3551 et seq.____
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(3)

18:1959(a)(5) and 3551 et seq.
CONSPIRACY, MURDER, KIDNAP
(3s)

The defendant was found no guilty to any charges in the indictment.

18:1959 (a)(1), 2 and 3551 et seq.____
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(4)

18:1959(a)(1), 2 and 3551 et seq.
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(4s)

The defendant was found no guilty to any charges in the indictment.

18:1959 (a)(1), 2 and 3551 et seq.____
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(5)

18:1959(a)(1), 2 and 3551 et seq.
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(5s)

The defendant was found no guilty to any charges in the indictment.

18:1959 (a)(1), 2 and 3551 et. seq.____
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(6)

18:1959(a)(1), 2 and 3551 et seq.
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(6s)

The defendant was found no guilty to
any charges in the indictment.

18:1959 (a)(1), 2 and 3551 et seq.____
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(7)

18:1959(a)(1), 2 and 3551 et seq.
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(7s)

The defendant was found no guilty to
any charges in the indictment.

18:1959 (a)(3), 2 and 3551 et. seq.____
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(8)

18:1959(a)(1), 2 and 3551 et seq.
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(8s)

The defendant was found no guilty to
any charges in the indictment.

18:1959 (a)(5) and 3551 et seq.____
VIOLENT CRIME IN AID OF
RACKETEERING, MURDER FIRST
DEGREE
(9)

18:1959(a)(3), 2 and 3551 et seq.
CONSPIRACY, MURDER, KIDNAP
(9s)

The defendant was found no guilty to
any charges in the indictment.

18:924 (c)(1), 2 and 3551 et seq.____
FIREARMS
(12)

18:924(c)(1), 2 and 3551 et seq.
FIREARMS
(12s)

The defendant was found no guilty to
any charges in the indictment.

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition

Plaintiff**USA**represented by **Andrew Weissman**

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Date Filed	#	Docket Text
02/27/1992	1	COMPLAINT as to DOE-1-92-400M-01 DOE-1-92-400M-01 (1) count(s) cmp [1:92-m -400] (Best, Trish) (Entered: 03/10/1992)
02/27/1992		ARREST WARRANT issued as to DOE-1-92-400M-01 [1:92-m -400] (Best, Trish) (Entered: 03/10/1992)
04/01/1992		Magistrate Chrein has been selected by random selection to handle any matters that may be referred in this case. (Greves, Liz) (Entered: 04/07/1992)
04/01/1992		Added Government Attorney George A. Stamboulidis (Greves, Liz) (Entered: 04/07/1992)
04/01/1992	5	NOTICE of Appearance for Victor Orena by Attorney Gustave H. Newman (Greves, Liz) (Entered: 04/09/1992)
04/06/1992	7	

		ORDER OF DETENTION as to Victor Orena (Signed by Judge I. L. Glasser , dated: 4/6/92) (Greves, Liz) (Entered: 04/09/1992)
04/16/1992	12	Letter dated 4/7/92 from Gustave Newman to Judge Glasser advising that deft Orena does not desire to make a motion to seal government's proffer. (Greves, Liz) (Entered: 04/16/1992)
05/06/1992	24	Government's Memo in support of its Rule 16(d) motion for a protective order pertaining to discovery of certain electronic surveillance material. (Greves, Liz) (Entered: 05/19/1992)
05/26/1992	25	MOTION by Victor Orena to sever Ct 4 of the superseding indictment , to suppress post-arrest statements ; motion hearing set for 6/12/92 at 11:30AM. (Greves, Liz) (Entered: 05/27/1992)
05/26/1992	26	MEMORANDUM by Victor Orena 1 in support of [25-1] motion to sever Ct 4 of the superseding indictment, [25-2] motion to suppress post-arrest statements (Greves, Liz) (Entered: 05/27/1992)
06/12/1992	31	Letter dated 6/10/92 from AUSA Leopold Laufer to Mr. Newman, re: discovery. (Lui, Lin) (Entered: 06/12/1992)
06/29/1992	35	REPLY MEMORANDUM by Victor Orena in support of motion to suppress post-arrest statements. (Greves, Liz) (Entered: 06/29/1992)
07/14/1992	38	SUPERSEDING INDICTMENT as to Victor J. Orena (1) count(s) 1sss, 2sss, 3sss, 4sss, 7sss, 9sss, 10sss, 11sss, 13sss (Greves, Liz) (Entered: 07/15/1992)
07/20/1992	40	Copy of letter dated 7/14/92 from Leopold Laufer to Messrs Newman & Brafman advising that the government will not offer into evidence any electronic surveillance obtained pursuant to the 1st Order or the 2nd Order. (Greves, Liz) (Entered: 07/20/1992)
08/19/1992	48	Copy of letter dated 8/4/92 from Gustave H. Newman to Judge Glasser regarding the 4th superseding indictment. (see letter for further details). (Greves, Liz) (Entered: 08/19/1992)
08/19/1992	49	Copy of letter dated 8/5/92 from Gustave H. Newman to Mr. Laufer re: discovery. (Greves, Liz) (Entered: 08/19/1992)
08/19/1992	50	ORDER dated 8/10/92 that hearing & argument on the outstanding motions by Orena & Amato are adjourned from 8/14/92 to 8/20/92 at 4:30PM (Signed by Judge I. L. Glasser on letter dated 8/7/92 from Leopold Laufer) (Greves, Liz) (Entered: 08/19/1992)
08/19/1992	51	Faxed letter dated 8/10/92 from Gustave H. Newman to Judge Glasser requesting that the Orena/Amato motions presently scheduled to be heard on 8/20/92 be heard instead on 8/24/92. (Greves, Liz) (Entered: 08/19/1992)
08/31/1992		CASE reassigned from Judge I. Leo Glasser to Judge Jack B. Weinstein by direction. (Francis, Jackie) (Entered: 08/31/1992)
09/09/1992	57	Ltr. to Mr. Laufer from G.Newman dtd. 9/2/92 re: discovery (Jackson, Ramona) (Entered: 09/09/1992)

09/10/1992	58	Ltr. to counsels from G.Stamboulidis dtd. 9/7/92 re: discovery (Jackson, Ramona) (Entered: 09/10/1992)
09/10/1992	59	SEALED DOCUMENT as to ORENA Letter dtd. 9/8/92 (Jackson, Ramona) (Entered: 09/10/1992)
09/17/1992	65	NOTICE of Phone Message dtd. 9/11/92 (Jackson, Ramona) (Entered: 09/17/1992)
10/26/1992		Added Government Attorney John Gleeson (Jackson, Ramona) (Entered: 10/26/1992)
10/26/1992	105	TRANSCRIPT filed in case for hearing before Mag. Azrack as to Steven Cartergainer dates of 7/8/92 ; (Jackson, Ramona) (Entered: 10/26/1992)
12/03/1992		Added Government Attorney Andrew Weissman (Jackson, Ramona) (Entered: 12/03/1992)
05/14/1993	322	ORDER UNSEALING Superseeding Indictment as to Alphonse Persico (Signed by Magistrate Joan M. Azrack , dated: 5/14/93) (Jackson, Ramona) (Entered: 05/18/1993)
05/14/1993		Arreest WARRANT issued as to Alphonse Persico By Mag. Azrack dtd. 5/13/93 (Jackson, Ramona) (Entered: 05/19/1993)
05/14/1993	323	SUPERSEDING INDICTMENT as to Lawrence A. Fiorenza (5) count(s) 1sss, 2sss, 7sss, 9sss, 10sss, 11sss, 12sss, 13sss, Lawrence Mazza (6) count(s) 1ss, 2ss, 3ss, 4ss, 7ss, 8ss, 9ss, 10ss, 11ss, 12ss, Joseph Russo (7) count(s) 1s, 2s, 5s, 6s, 9s, 10s, 11s, 12s, Anthony Russo (8) count(s) 1s, 2s, 5s, 6s, 9s, 10s, 11s, 12s, Robert Zambardi (9) count(s) 1s, 2s, 9s, 10s, 11s, 12s, 15s, Joseph Monteleone (10) count(s) 1s, 2s, 5s, 6s, 9s, 12s, 16s, Alphonse Persico (11) count(s) 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, Joseph Tomasello (12) count(s) 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, Theodore Persico (13) count(s) 1, 2, 9, 10, 11, 12, Richard Fusco (14) count(s) 1, 2, 9, 10, 11, 12, 14, James Delmastro (15) count(s) 1, 2, 3, 4, 7, 8, 9, 10, 11, 12 (Jackson, Ramona) (Entered: 05/19/1993)
05/19/1993	333	Ltr. to Mag. Azrack from AUSA'S in support as to Alphonse Persico in support of [331-1] order of detention (Jackson, Ramona) (Entered: 05/19/1993)
05/25/1993	346	Ltr. to Mr. Stamboulidis from Linda Sheffield dtd. 5/24/93 re: Alphonse Persico in opposition to rescheduling of arraignment (Jackson, Ramona) (Entered: 05/25/1993)
05/27/1993	355	ORDER as to Alphonse Persico, scheduling conference for 10:00 5/31/93 for Alphonse Persico On ltr. dtd. 5/21/93 from AUSA (Signed by Judge Jack B. Weinstein , dated: 5/24/93) (Jackson, Ramona) (Entered: 05/27/1993)
06/02/1993	358	ORDER as to Alphonse Persico No objection by US Atty., Federal Bureau of Prisons to preserve all of its official records Motion GRANTED Copies mailed (Signed by Judge Jack B. Weinstein , dated: 6/1/93) (Jackson, Ramona) (Entered: 06/02/1993)
06/03/1993	373	Ltr. to counsels from AUSA'S dtd. 5/27/93 re: tapes in relation to case to Carroll Audio (Jackson, Ramona) (Entered: 06/03/1993)

06/04/1993	377	Ltr. to JBW from Linda S.Sheffield dtd. 6/1/93 re: arraignemnt of deft. (Jackson, Ramona) (Entered: 06/04/1993)
06/07/1993	382	TRANSCRIPT filed in case as to Alphonse Persico for detention hearing before Mag. Chrein dates of 5/18/93 ; (Jackson, Ramona) (Entered: 06/07/1993)
06/07/1993	385	Ltr. to L.Bouchillon from Linda Sheffield dtd. 5/25/93 re: object to entire administrative process (Jackson, Ramona) (Entered: 06/07/1993)
06/07/1993	386	Ltr. to Mr.Stamboulidis from L.Sheffield dtd. 5/24/93 re: RESPONSE by Alphonse Persico in opposition to rescheduling of arraignment (Jackson, Ramona) (Entered: 06/07/1993)
06/07/1993	391	CALENDAR ENTRY as to Alphonse Persico ; Case called before Judge Jack B. Weinstein on date of 6/7/93 for Pleading Court Reporter/ESR J.Howell For deft. L.Sheffield AUSA G.Stamboulidis Deft. appears with counsel Deft. arraigned , Not Guilty: , Alphonse Persico (11) count(s) 1, 2, 3, 4, 5, 6, 7, 8, 9, 12 (Jackson, Ramona) (Entered: 06/08/1993)
06/07/1993	410	Rule 40 Documents as to Alphonse Persico received from ED Michigan Ackn. mailed (Jackson, Ramona) (Entered: 06/11/1993)
06/09/1993	398	ORDER as to Alphonse Persico deft. remain at MCC until at least 6.21.93 (Signed by Judge Jack B. Weinstein , dated: 6/7/93) (Jackson, Ramona) (Entered: 06/09/1993)
06/09/1993	399	WAIVER of Speedy Trial and ORDER of Excludable Delay by Alphonse Persico. (Signed by Judge Jack B. Weinstein , Dated 6/7/93). (Yuen, Sui May) (Entered: 06/09/1993)
06/09/1993	401	AFFIDAVIT as to Alphonse Persico Re: [358-1] order received 6/4/93 (Jackson, Ramona) (Entered: 06/09/1993)
06/10/1993	423	CALENDAR ENTRY as to Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, Richard Fusco ; Case called before Judge Jack B. Weinstein on date of 6/10/93 for Pretrial Conf., Def't's pres. with counsels AUSA'S pres. Pretrial conf. held set status conference for 7/20/93 for Lawrence A. Fiorenza, for Lawrence Mazza, for Robert Zambardi, for Alphonse Persico, for Theodore Persico, for Richard Fusco , set status conference for 6/24/93 for Joseph Russo, for Anthony Russo, for Joseph Monteleone SR. (Jackson, Ramona) (Entered: 06/17/1993)
06/11/1993	411	WAIVER of Speedy Trial and/or ORDER of Excludable Delay by Lawrence A. Fiorenza, Lawrence Mazza, Robert Zambardi, Alphonse Persico, Theodore Persico, Richard Fusco (Signed by Judge Jack B. Weinstein , Dated 6/10/93) (Jackson, Ramona) (Entered: 06/11/1993)
06/14/1993	417	ORDER as to Alphonse Persico MOTION GRANTED to preserve all of its official records concerning deft., including telephone and visitation records, DHO records and his entire central file. Copies mailed (Signed by Judge Jack B. Weinstein , dated: 6/4/93) (Jackson, Ramona) (Entered: 06/14/1993)

06/22/1993	426	Ltr. to JBW from AUSA'S dtd. 6/19/93 re: RESPONSE by USA as to Alphonse Persico motion for an order detaining deft. By JBW ORDER dtd. 6/21/93 set for prompt argument (Jackson, Ramona) (Entered: 06/22/1993)
06/23/1993	429	NOTICE of Appearance by B.Slotnick for Alphonse Persico (Jackson, Ramona) (Entered: 06/23/1993)
06/23/1993		Added for Alphonse Persico Attorney Barry I. Slotnick (Jackson, Ramona) (Entered: 06/23/1993)
06/28/1993	445	Ltr. to JBW from G Lombardi dtd. 6/23/93 re: ackn. to ltr. dtd. 6/5/93 (Jackson, Ramona) (Entered: 06/28/1993)
06/30/1993	454	MAIL RETURNED Memo. & Order to J.Winograd returned on 6/30/93 (Jackson, Ramona) (Entered: 06/30/1993)
07/12/1993	462	USCA Order dtd 7/9/93 motion for a stay pending appeal of orders releasing the Deft from pretrial detention is granted to the extent of continuing the motion by a panel of the court. (McGee, Maryann) (Entered: 07/12/1993)
07/23/1993	487	Letter dated 7/23/93 from Andrew Weissman to Ms. Seltzer and Mssrs. Goldberg, Golub, Lopez, Maffeo, Marinello, Roth, Slotnic and Washor, Re: Enclosing the draft transcripts that were used in the Orena or Sessa trials for (1) Ambrosino car tapes, (2) Imbriale consensual tapes and (3) Audino tapes. (Piper, Francine) (Entered: 07/28/1993)
07/26/1993	484	USCA Order filed on 7/9/93 the motion for Stay Pending Appeal of Orders Releasing Defendants it is Ordered that the one-judge order staying release on bail is still in effect. Judge notified.. Ackn mailed. USCA # 93-1473. (Gonzalez, Mary) (Entered: 07/26/1993)
07/28/1993	488	Letter dated 7/23/93 from Thomas J. King to Judge Weinstein, Re: The U.S Attorney's Office have agreed to file a motion to quash the subpoena on our behalf, therefore we are requesting an additional 10 days in which to respond to the subpoena. (Piper, Francine) (Entered: 07/28/1993)
07/30/1993		CASE reassigned from Judge Jack B. Weinstein to Judge Charles P. Sifton by random selection. (Francis, Jackie) (Entered: 07/30/1993)
07/30/1993	501	COPY OF LETTER dated 7/26/93 from Leon Rodriguez to Mr. Brief. Re: Several issues pertaining to discovery. Govt opposes request for a delineation of the dft's and co-conspirators' roles in the acts contained in this letter.(fe) Modified on 08/04/1993 (Entered: 08/04/1993)
08/02/1993	497	COPY of letter from AUSA George Stamboulidis to counsel dated 7/29/93 Re: advising that this action has been reassigned to Judge Sifton and that there will be a status conference held on 8/5/93 at 3:45. (Conte, Daniela) (Entered: 08/02/1993)
08/04/1993		ENDORSED ORDER as to Alphonse Persico granting [488-1] adjournment of 10 days to respond to subpoena Alphonse Persico (11) (Judge Jack B. Weinstein , dated 7/30/93) Copies mailed (Jackson, Ramona) (Entered: 08/04/1993)
08/05/1993	509	

		CALENDAR ENTRY as to Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, Richard Fusco; Case called before Judge Charles P. Sifton on date of 8/5/93 at 3:45 for status conference. All defendants present with counsel except Richard Fusco and Joseph Montelone, who are present without counsel. Court Reporter/ESR Fred Guerino. Status conference held. (First appearance before Judge Sifton.) Pretrial order signed, setting jury selection and trial for 2/1/94 at 9:30AM. A pretrial conference will be held on 1/20/94 at 2:00PM. Pretrial motions will be argued on 9/21/93 at 9:30AM. Conformed copies of order given to counsel. The subpoenas served by dft Joseph Russo on the Nassau County Police Dept. and by dft Lawrence Mazza on the New York City Police Dept. are extended to 9/1/93. If the subpoenas are not satisfied by then, the dfts shall make their motions to compel compliance returnable on 9/21. The [498-1] motion by the NYC Police Dept. to quash the subpoena for the production of documents as to Lawrence Mazza (6) is marked off the calendar at this time, in anticipation of the resolution of the matter by the parties. If counsel Mitchell Golub or Frank Lopez object to any portion of the schedule set today, they shall move promptly, on notice to all parties for its modification. (Conte, Daniela) (Entered: 08/16/1993)
08/09/1993	504	ORDER of Excludable Delay as to Carmine Sessa, Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Joseph Tomasello, Theodore Persico, Richard Fusco, James Delmastro (Signed by Judge Charles P. Sifton , dated: 8/5/93) (fe) (Entered: 08/09/1993)
08/09/1993	505	PRETRIAL SCHEDULING ORDER as to Carmine Sessa, Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Joseph Tomasello, Theodore Persico, Richard Fusco, James Delmastro. 1) To appear with counsel on 2/1/94; 2) To appear to select a jury to try case on 2/1/94 at 9:30; 3) To make all pretrial motions based on any defense, objection, or request, which is capable of determination before the trial of the general issue, in writing, returnable on or before 9/21/93 at 12:00; 4) To appear with counsel who is to try case at pretrial conference on 1/20/94 at 2:00; 5) Counsel for the Govt is directed to attend the pretrial conference with material required to be produced at trial. (Signed by Judge Charles P. Sifton , dated: 8/5/93) (fe) (Entered: 08/09/1993)
08/10/1993	506	Ltr. to JBW from Thomas J.King dtd. 7/23/93 re: Nassau County Police Dept. Request to quash subpoena & extension of time to respond for additional ten days (Jackson, Ramona) (Entered: 08/10/1993)
08/19/1993	511	TRANSCRIPT filed in case as to Alphonse Persico, Lawrence Mazza, Richard Fusco, Joseph Monteleone SR., Joseph Russo for status conf. before JBW dates of 7/20/93 ; Court Reporter/ESR: M.Gjelaj (Jackson, Ramona) (Entered: 08/19/1993)
08/31/1993	516	ORDER as to Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Richard Fusco (Signed by Judge Charles P. Sifton, dated: 8/24/93). The dfts'

		request to be housed at MCC is denied without prejudice to its renewal after counsel for the dfts and counsel for the U.S. have conferred in an effort to arrange a solution satisfactory to both sides. So ordered on request itself. (Conte, Daniela) (Entered: 08/31/1993)
09/10/1993	526	MOTION by counsel for Alphonse Persico, dated 9/10/93, for disclosure and inspection; to dismiss counts 1-9 of the indictment; for severance and to have dft released on bail . Motion Hearing/Return date of 12:00 on 9/21/93 for Alphonse Persico [526-1] motion. Supporting documents attached. (Conte, Daniela) (Entered: 09/10/1993)
09/15/1993	542	ORDER as to all remaining defendants, extending time until 9/13/93 for the filing of dft's motions; until 9/24/93 for the government to respond; return date rescheduled to 9/28/93 (Signed by Judge Charles P. Sifton, dated: 9/13/93). So ordered on letter from AUSA George Stamboulidis to Judge Sifton dated 9/9/93. (Conte, Daniela) (Entered: 09/15/1993)
09/27/1993	571	Letter from AUSA George Stamboulidis and Ellen Corcella to Judge Sifton dated 9/23/93, Re: requesting additional time to file responses to the motions of defendants. (Conte, Daniela) (Entered: 09/27/1993)
09/28/1993	572	MEMORANDUM by AUSA Ellen Corcella, Leon Rodriguez and George Stamboulidis, dated 9/27/93, in opposition to the defendants' pretrial motions for discovery; suppression; severance; dismissal, etc. (Conte, Daniela) (Entered: 09/28/1993)
09/29/1993	576	Letter from Judge Sifton to the Warden of Metropolitan Correctional Center dtd 09/24/93, re: Requesting that defts Alphonse Persico, Monteleone and Joseph and Anthony Russo remain at the facility through November. (Francis, Jackie) (Entered: 09/29/1993)
09/29/1993	579	RESPONSE by the USA as to Alphonse Persico in support of its motion to detain the defendant. Response submitted in the form of a letter from AUSA George Stamboulidis and Andrew Weissman to Magistrate Azrack dated 5/14/93. Enclosures. (Conte, Daniela) (Entered: 09/29/1993)
10/08/1993	585	REPLY by counsel for Alphonse Persico, dated 10/6/93, to response to [526-1] motion for disclosure and inspection; to dismiss counts 1-9 of the indictment; for severance and to have dft released on bail. (Conte, Daniela) (Entered: 10/08/1993)
10/08/1993	586	ORDER, extending time to 10/22/93 for the parties to submit papers in regard to the pending motions (Signed by Magistrate A. S. Chrein, dated: 9/30/93). So ordered on faxed copy of letter from Robert Kalina, Esq., to Magistrate Chrein dated 9/30/93. c/m (Conte, Daniela) (Entered: 10/08/1993)
10/12/1993	597	CALENDAR ENTRY as to Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, Richard Fusco; Case called before Judge Charles P. Sifton on date of 10/12/93 at 9:30 for motion hearing. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella present. All defendants present with counsel except for Richard Fusco. Court Reporter/ESR Carmella Jannuzzi. Alphonse Persico's motion for bail is argued. The gov't is to provide

		the Court and the dft with a copy of the transcript of previous bail proceedings. Gov't to file papers in response by 5PM on 10/13- any reply to be filed by 10/14- a hearing is scheduled for 10/18 at 9:30AM. Dft Mazza's motion to strike surplussage is argued- decision reserved. Dft Zambardi's motion for dismissal on double jeopardy argued- decision reserved. The dfts' motion for a Bill of Particulars is scheduled for discussion on 10/18 at 9:30AM. Each dft is to state by 10/15 what particulars he still wants the gov't to state. A hearing on the audibility motions is scheduled for 1/10/94 at 9:30AM. The gov't is to disclose to dfts by 12/13/93 which tapes it intends to use at trial. Dfts are to submit to the Court by 1/3/94 a statement of any disputes with the gov't's transcripts, and their counter-designations of transcript portions that they wish used at trial. Dfts are to provide the Court by 10/15 with a written statement of the discovery demands that are still outstanding, and are to appear on this matter on 10/18. The gov't is to disclose to dfts by 12/13/93 what evidence of other criminal acts it intends to use at trial. Any opposing papers generated by the gov't's disclosure are to be filed by 1/4/94. Any issues in dispute will be argued on 1/10/94 at 9:30AM. Dft Fiorenza's motion for leave to obtain transcripts of court proceedings pursuant to the Criminal Justice Act is granted. Dft Fusco's motion for the suppression of post-arrest statements is resolved by counsel and is withdrawn. Dft Monteleone's motion challenging his photo identification is argued- decision reserved. Decision is also reserved on all other motions for suppression of evidence or statements and for severance. (Conte, Daniela) (Entered: 10/21/1993)
10/18/1993	599	CALENDAR ENTRY as to Alphonse Persico ; Case called before Judge Charles P. Sifton on date of 10/18/93 for Motion conference Court Reporter/ESR Mary Ann Danielle. Dft's motions for bail is argued. Detention hearing begun. Hearing continued to 10/19/93 at 9:30. Temporary detention order signed. (fe) (Entered: 10/21/1993)
10/19/1993	598	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 10/19/93 at 2:00 for bail application. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella present. Dft present with counsel, Barry Slotnick. Court Reporter/ESR Marsha Diamond. Dft Alphonse Persico's detention hearing is continued. Hearing concluded. Decision reserved. Case continued to 10/20/93 for decision. (Conte, Daniela) (Entered: 10/21/1993)
10/20/1993	600	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 10/20/93 at 9:30 for motion hearing. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella, and, defense attorney Barry Slotnick present. Dft present; in custody. Court Reporter/ESR Marsha Diamond. Further argument of the defendants' motion for bail is heard. The Court dictates its decision on the record, ordering that the defendant be detained pending trial. (Conte, Daniela) (Entered: 10/22/1993)
10/22/1993	601	TEMPORARY COMMITMENT issued as to Alphonse Persico (Signed by Judge Charles P. Sifton, dated 10/18/93). The dft is to be kept separate from the other inmates and shall be able to have private meetings with counsel. The dft shall be delivered to a US Marshal to be brought to court appearances.

		(Certified copies forwarded to the US Marshal's Office.) (Conte, Daniela) (Entered: 10/22/1993)
10/22/1993	602	ORDER OF DETENTION as to Alphonse Persico (Signed by Judge Charles P. Sifton, dated: 10/20/93). (Conte, Daniela) (Entered: 10/22/1993)
10/22/1993	603	TRANSCRIPT of motion hearing before Judge Sifton filed in case as to Alphonse Persico for date of 10/19/93 at 2:00. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella, and defense attorneys Barry Slotnick and Michael Bader present. Court Reporter/ESR: Marsha Diamond. (Conte, Daniela) (Entered: 10/22/1993)
10/26/1993	604	TRANSCRIPT of detention hearing before Judge Sifton filed in case as to Alphonse Persico for date of 10/18/93 at 9:30. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella and defense attorney Barry Slotnick present. Court Reporter/ESR: Mary Ann Daniele. (Conte, Daniela) (Entered: 10/26/1993)
11/01/1993	606	COPY of letter from AUSA Ellen Corcella to Matthew Brief, Esq., dated 10/29/93, Re: forwarding ballistics evidence and property vouchers. Enclosures. (Conte, Daniela) (Entered: 11/01/1993)
11/01/1993	607	COPY of letter from AUSA Ellen Corcella to all counsel, dated 10/28/93, Re: advising that 13 additional audio cassettes exist. (Conte, Daniela) (Entered: 11/01/1993)
11/02/1993	608	TRANSCRIPT of conference before Judge Sifton filed in case as to Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, and Richard Fusco for date of 10/12/93 at 9:30. AUSA George Stamboulidis, Andrew Weissmann and Ellen Corcella present. Appearances by defense counsel: Mark Baker for dft A. Persico; Michael Washor for dft T. Persico; Salvatore Marinello for dft J. Russo; Melvin Roth for dft A. Russo; Mitchell Golub for dft R. Fusco; Joshua Dratel for dft R. Zambardi; Marion Seltzer for dft J. Monteleone; Martin Goldberg for dft L. Fiorenza and Bruce Maffeo and Matthew Brief for dft Mazza. Court Reporter/ESR: Carmella Jannuzzi. (Conte, Daniela) (Entered: 11/02/1993)
11/02/1993	609	CALENDAR ENTRY as to Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, and Richard Fusco; Case called before Judge Charles P. Sifton on date of 11/2/93 at 9:30 for motion hearing. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella present. All defendants appeared with counsel except for Anthony Russo who appeared without counsel. Court Reporter/ESR Guerino. Counsel Salvatore Marinello stands in for Melvyn Roth as counsel for dft Anthony Russo for this days proceedings. Rulings on the defendants' discovery motions are made on the record. The government is to provide the dfts with a Bill of Particulars within 10 days. (Conte, Daniela) (Entered: 11/04/1993)
11/15/1993	610	COPY of letter from AUSA George Stamboulidis to counsel, dated 11/12/93, Re: advising that a copy of the audio cassette of a conversation between A.

		Persico and Stanley Meyer is available at Carroll Audio Services. (Conte, Daniela) (Entered: 11/15/1993)
11/18/1993	615	SEALED DOCUMENT placed in vault, containing a letter dated 11/9/93 from Andrew Weissman to the Court. (Conte, Daniela) (Entered: 11/18/1993)
12/09/1993	620	ORDER, extending time to 12/21/93 for the government to make disclosures (Signed by Judge Charles P. Sifton, dated: 12/7/93). So ordered on letter from AUSA George Stamboulidis to Judge Sifton of 12/7/93. (Conte, Daniela) (Entered: 12/09/1993)
12/22/1993	624	COPY of letter from AUSA George Stamboulidis to defense counsel, dated 12/21/93, Re: advising about tapes to be used at trial. (Conte, Daniela) (Entered: 12/22/1993)
01/10/1994	628	CALENDAR ENTRY as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, Richard Fusco; Case called before Judge Charles P. Sifton on date of 1/10/94 at 9:30 for hearing. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella present. Defense attorneys Barry Slotnick for dft A. Persico; Michael Washor for T. Persico; Salvatore Marinello for dft J. Russo; Melvyn Roth for dft A. Russo; Marvin Segal for dft R. Fusco; Joshua Dratel for dft R. Zambardi; Marion Seltzer for dft Monteleone; and Martin Goldberg for dft Fiorenza. All defendants present with counsel. Court Reporter/ESR Jeffrey Howell. Dft Zambardi's application for greater particularization of its Bill of Particulars is granted. A hearing on tape audibility will be held on 1/13/94 at 9:30AM. The dfts are to furnish by the end of the day on 1/12/94 their alternate interpretations of the tapes. WADE hearing as to dft Monteleone adjourned to 1/11 at 9:30AM. (Conte, Daniela) (Entered: 01/11/1994)
01/13/1994	633	CALENDAR ENTRY as to Joseph Russo, Anthony Russo, Joseph Monteleone SR., and Alphonse Persico; Case called before Judge Charles P. Sifton on date of 1/13/94 at 10:00 for hearing. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella and defense attorneys Salvatore Marinello for dft J. Russo; Melvyn Roth for dft A. Russo; and Marion Seltzer for dft Monteleone present. Dfts A. Persico, J. Russo and Monteleone present with counsel. Counsel present without dft A. Russo. Court Reporter/ESR Mark Gjelij. Hearing concerning tape audibility adjourned to 1/14 at 2PM. (Conte, Daniela) (Entered: 01/14/1994)
01/14/1994	634	COPY of letter from AUSA Ellen Corcella to defense counsel, dated 1/13/94, Re: providing transcripts of tapes. (Enclosures) (Conte, Daniela) (Entered: 01/14/1994)
01/14/1994	635	CALENDAR ENTRY as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, and Richard Fusco; Case called before Judge Charles P. Sifton on date of 1/14/94 at 2:00 for hearing. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella present. Defense attorneys Barry Slotnick for dft A. Persico; Michael Washor and Joel Winograd for dft T. Persico; Salvatore Marinello for dft J. Russo; Melvyn Roth for dft A. Russo;

		Marvin Segal for dft R. Fusco; Franl Lopez for dft R. Zambardi; Marion Seltzer for dft Monteleone; and Martin Goldberg for dft L. Fiorenza present. Court Reporter/ESR Mark Gjela. Sealed proceedings held involving only dft A. Persico, his defense counsel and gov't counsel. Conference held for all dfts and counsel concerning the transcripts of the tape recorded conversations. (Conte, Daniela) (Entered: 01/18/1994)
01/18/1994	636	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 1/18/94 at 12:30 for motion hearing. AUSA George Stamboulidis and defense attorney Mark Baker present. Dft not present. Court Reporter/ESR Marsha Diamond. Rulings are given concerning all defendants' motions with respect to the audibility of telephone tapes. (Conte, Daniela) (Entered: 01/19/1994)
01/20/1994	638	CALENDAR ENTRY as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, Richard Fusco; Case called before Judge Charles P. Sifton on date of 1/20/94 at 2:00 for motion hearing. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella; and, defense attorneys Barry Slotnick for dft A. Persico; Michael Washor for dft T. Persico; Salvatore Marinello for dft J. Russo; Melvyn Roth for dft A. Russo; Mitchell Golub for dft Fusco; Frank Lopez for dft R. Zambardi; Marion Seltzer for dft J. Monteleone; and Martin Goldberg for dft Fiorenza present. Dfts present with counsel. Court Reporter/ESR Marsha Diamond. Pretrial conference held. Govt's motion for an anonymous and sequestered jury is to be filed by 1/24/94. The dfts are to file responses by 1/26. (Conte, Daniela) (Entered: 01/21/1994)
01/24/1994	641	Proposed Jury Instructions by AUSA George Stamboulidis, Andrew Weissmann and Ellen Corcella. (Conte, Daniela) (Entered: 01/24/1994)
01/24/1994	642	MEMORANDUM by AUSA George Stamboulidis, Andrew Weissmann and Ellen Corcella, dated 1/23/94, in support of its motion for an anonymous and partially sequestered jury. Exhibits annexed. (Conte, Daniela) (Entered: 01/24/1994)
01/24/1994	644	CALENDAR ENTRY as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, and Richard Fusco; Case called before Judge Charles P. Sifton on date of 1/24/94 at 9:30 for motion hearing. AUSA George Stamboulidis and defense attorneys Barry Slotnick and Mark Baker for dft A. Persico; Michael Washor and Joel Winograd for dft T. Persico; Salvatore Marinello for dft J. Russo; Melvyn Roth for dft A. Russo; Marvin Siegel for dft R. Fusco; Frank Lopez for dft R. Zambardi; Marion Seltzer for dft J. Monteleone; and Martin Goldberg for dft L. Fiorenza present. Only dft A. Persico present with counsel. All other counsel present without dfts. Court Reporter/ESR Sheldon Silverman. Status conference held. Briefing schedules for various applications are set. Next appearance for all dfts will be 1/28/94 at 11AM. (Conte, Daniela) (Entered: 01/25/1994)
01/25/1994	643	LIMITED Witness list by AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella. (Conte, Daniela) (Entered: 01/25/1994)

01/27/1994	645	ORDER as to Alphonse Persico, signed by Judge Charles P. Sifton, dated: 1/26/94. Barry Slotnick is disqualified from representing the dft. The parties are to appear on 1/28/94 at 11:00AM to determine dft's future representation. c/m (Conte, Daniela) (Entered: 01/27/1994)
01/27/1994	646	SEALED DOCUMENT placed in vault containing a copy of a letter from Matthew Brief dated 1/20/94. (Conte, Daniela) (Entered: 01/27/1994)
01/28/1994	647	MEMO/ORDER defendants' motions to dismiss the indictment; for separate trials; for disclosure of grand jury testimony; suppression; for a James hearing; double jeopardy issue; for a Wade hearing; for pretrial interviews of government witnesses; and to strike surplusage are all denied. (Signed by Judge Charles P. Sifton, dated: 1/26/94). c/m (Conte, Daniela) (Entered: 01/28/1994)
01/28/1994	650	CALENDAR ENTRY as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, Richard Fusco; Case called before Judge Charles P. Sifton on date of 1/28/94 at 11:00 for motion hearing. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella; defense attorneys Barry Slotnick for dft A. Persico; Michael Washor for dft T. Persico; Salvatore Marinello for dft J. Russo; Melvyn Roth for dft A. Russo; Marvin Segal for dft R. Fusco; Richard Rosenkranz for dft R. Zambardi; Marion Seltzer for dft Monteleone; Martin Goldberg for dft Fiorenza present. All dfts except for R. Fusco present. Dft A. Persico's motion for reconsideration of the Court's ruling of 1/26/94 disqualifying the firm of Slotnick & Baker as counsel for A. Persico is granted. Upon reconsideration, the Court adheres to its ruling. Dft R. Zambardi moves for severance- decision reserved. Dft A. Persico is to appear through new counsel as soon as possible, and in any event not later than 2/11/94. The application of dfts Zambardi and T. Persico for additional time to prepare for trial is granted, to the extent that the commencement of voir dire is adjourned from 2/1 to 2/8/94 at 9:30AM. (Conte, Daniela) (Entered: 01/31/1994)
01/31/1994	648	ORDER as to Carmine Sessa, Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Joseph Tomasello, Theodore Persico, Richard Fusco, James Delmastro, ordered that the Warden of the MCC allow each dft 2 suits, 2 slacks, and 2 sweaters to be exchanged each Friday during the course of the trial in the above matter, scheduled to begin on 2/1/94. (Signed by Judge Charles P. Sifton , dated: 1/27/94) (Dobkin, David) (Entered: 01/31/1994)
01/31/1994	649	ORDER of excludable delay from 9/2/93 to 1/26/94 as to Carmine Sessa, Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Joseph Tomasello, Theodore Persico, Richard Fusco, James Delmastro (Signed by Judge Charles P. Sifton , dated: 1/26/94) (Dobkin, David) (Entered: 01/31/1994)
01/31/1994	651	SEALED MEMORANDUM OPINION AND ORDER dtd 1/26/94 ORDER as to Michael Sessa, Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo,

		Carmine Sessa, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Joseph Tomasello, Theodore Persico, Richard Fusco, James (Signed by Judge Charles P. Sifton , dated: 1/16/94) (Glenn, Marilyn) (Entered: 02/02/1994)
02/02/1994	652	SEALED DOCUMENT containing a discovery letter. (Conte, Daniela) (Entered: 02/02/1994)
02/04/1994	657	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 2/4/94 at 11:30 for status conference. AUSA George Stamboulidis and defense attorney Barry Slotnick present. Dft present; in custody. Court Reporter/ESR Fred Guerino. Status conference held. Barry Slotnick reports that Alphonse Persico is still attempting to retain substitute counsel. (Conte, Daniela) (Entered: 02/08/1994)
02/07/1994	653	SEALED DOCUMENT placed in vault containing Amended Memorandum & Order dated 2/4/94. (Conte, Daniela) (Entered: 02/07/1994)
02/07/1994	655	AMENDED MEMO/ORDER signed by Judge Charles P. Sifton, dated: 2/1/94. The dft's motions to dismiss; for seperate trials; for examination of grand jury minutes; for suppression of records; for a James hearing; on the fear of double jeopardy; for suppression of photos; pretrial interviews of government witnesses; and to strike surplus language in the indictment are all denied. A hearing on the procedures employed in the photo identification of some of the dfts will be held at a later date, without a jury. c/m (Conte, Daniela) (Entered: 02/07/1994)
02/07/1994	656	ORDER, signed by Judge Charles P. Sifton, dated: 2/4/94. Juror questionnaires are to be distributed commencing 2/4/94 at 10:00. The selction of jurors will be anonymous. The contents of this order are to be communicated to anyone receiving a questionnaire in this case. (Conte, Daniela) (Entered: 02/07/1994)
02/14/1994	661	Letter from Judge Sifton to all counsel, dated 2/8/94, Re: providing a list of jurors to be excused. (Conte, Daniela) (Entered: 02/14/1994)
02/14/1994	662	ORDER as to Alphonse Persico (Signed by Judge Charles P. Sifton, dated: 2/7/94). Barry Slotnick and the members of the firm of Lefcourt & Dratel are to be given access to the Court's order, filed under seal, dated 1/26/94, for purposes of assisting the dft in the defense of the action and is subject to the directions of the Court with respect to confidentiality. (Conte, Daniela) (Entered: 02/14/1994)
02/14/1994	666	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 2/14/94 at 12:30 for status conference. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella; and defense attorneys Barry Slotnick and Mark Baker present. Dft present; in custody. Court Reporter/ESR Anthony Mancuso. Status conference held. Dft has not yet retained new counsel. Set further status conference for 4:30 on 2/17/94 for Alphonse Persico before Judge Charles P. Sifton . (Conte, Daniela) (Entered: 02/15/1994)
02/15/1994	667	

		ORDER as to Alphonse Persico, that the dft is to be housed at the Metropolitan Correctional Center until 3/18/94 at 5:00, subject to further direction of this Court (Signed by Judge Charles P. Sifton, dated: 2/14/94). (Conte, Daniela) (Entered: 02/15/1994)
02/17/1994	668	USCA Order filed on 2/14/94 the defendant Michael Sessa the motion for reinstatement for appeal, permission to file oversize brief is granted as to reinstatement only. Attorney is directed to file a motion for permission to file an oversized brief. The undersigned has authority to act only the former relief. Judge notified. Ackn mailed. USCA # 93-1413. (Gonzalez, Mary) (Entered: 02/17/1994)
02/17/1994	675	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 2/17/94 at noon for status conference. AUSA George Stamboulidis, Andrew Weissman, and Ellen Corcella; and, defense attorney Barry Slotnick present. Dft present; in custody. Court Reporter/ESR Anthony Mancuso. Status conference held at sidebar. Proceedings sealed. (Conte, Daniela) (Entered: 02/18/1994)
02/18/1994	669	SEALED DOCUMENT placed in vault containing the transcript of jury selection dated 2/1/94. (Conte, Daniela) (Entered: 02/18/1994)
02/18/1994	674	AFFIDAVIT by AUSA George Stamboulidis, dated 2/14/94, Re: in support of the unsealing of recordings to be used at this trial. (Conte, Daniela) (Entered: 02/18/1994)
02/18/1994	676	ORDER as to Alphonse Persico (Signed by Judge Charles P. Sifton, dated: 2/17/94). The Bureau of Prisons is to maintain the dft at the Metropolitan Correctional Center until 2/25/94 at 5:00, subject to further direction of the Court. (Conte, Daniela) (Entered: 02/18/1994)
02/22/1994	680	ORDER of excludable delay as to Alphonse Persico for the period of 1/26/94 until the appearance of new counsel (Signed by Judge Charles P. Sifton, dated: 2/18/94). (Conte, Daniela) (Entered: 02/22/1994)
02/24/1994	689	CALENDAR ENTRY as to Alphonse Persico ; Case called before Judge Charles P. Sifton on date of 2/24/94 at 12:00p.m. for status conference.ESR Roseann Guzzi. AUSA George Stamboulidis. Andrew Weissman and Ellen Corcella. Defense counsel: Barry Slotnick and Mark Baker. Deft not present. Deft in custody. Case called. Status conference held. Deft is still interviewing prospective counsel to be substituted for Barry Slotnick. Status conference to continue to 3/4/94 at 12:00p.m. (Dobkin, David) (Entered: 03/02/1994)
02/28/1994	685	COPY of letter from AUSA George Stamboulidis to all counsel, dated 2/25/94, Re: providing additional information on the financial report regarding Joseph Ambrosino. (Conte, Daniela) (Entered: 02/28/1994)
02/28/1994	686	COPY of letter from AUSA Andrew Weissmann to Martin Siegel, Esq., dated 2/21/94, Re: forwarding copies of pre-trial rulings, the Bill of Particulars. Further discovery will be available upon his return to the office. (Conte, Daniela) (Entered: 02/28/1994)
03/02/1994	1311	

		LETTER dated 3/2/94 from AUSA, Andrew Weissman, to Judge Sifton, advising the Court and counsel as to three areas which the government intends to examine Ambrosino on re-direct examination. (Asreen, Wendy) (Entered: 04/09/1997)
03/02/1994	687	SEALED DOCUMENT placed in vault containing letter dated 2/24/94. (Conte, Daniela) (Entered: 03/02/1994)
03/02/1994	688	SEALED DOCUMENT placed in vault containing letter dated 2/24/94. (Conte, Daniela) (Entered: 03/02/1994)
03/02/1994	693	ORDER as to Alphonse Persico, ordered that sealed proceedings dated 1/14/and 1/24/94, be transcribed and that a copy of the transcripts be provided to the govt and to the Court. The transcripts shall remain under seal and not be disseminated. (received 3/2/94). (Signed by Judge Charles P. Sifton , dated: 1/5/94) (Dobkin, David) (Entered: 03/02/1994)
03/02/1994	695	ORDER as to Alphonse Persico, ordered the Bureau of Prisons is directed to maintain deft in custody at the MCC until 3/4/94 for the purpose of obtaining new counsel. (Signed by Judge Charles P. Sifton , dated: 2/24/94) (Dobkin, David) (Entered: 03/02/1994)
03/02/1994	697	COPY of letter from AUSA George Stamboulidis to counsel, dated 3/1/94, Re: forwarding additional 3500 material. Enclosures. (Conte, Daniela) (Entered: 03/02/1994)
03/03/1994	701	SCHEDULING ORDER as to Alphonse Persico, James Delmastro setting Pretrial Conference for 2:00 on 9/2/94 for Alphonse Persico, for James Delmastro; Motion Filing deadline on 12:00 on 5/4/94 for Alphonse Persico, for James Delmastro; Jury Selection for 9:30 on 9/6/94 for Alphonse Persico, for James Delmastro; Jury Trial for 9:30 on 9/6/94 for Alphonse Persico, for James Delmastro (Signed by Judge Charles P. Sifton on 2/22/94). (Conte, Daniela) (Entered: 03/03/1994)
03/04/1994	702	Letter from AUSA Ellen Corcella, Andrew Weissman and George Stamboulidis to defense counsel, dated 3/4/94, Re: furnishing the "302's" pertaining to interviews of Joseph Ambrosino. Enclosures. (Conte, Daniela) (Entered: 03/04/1994)
03/04/1994	706	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 3/4/94 at noon for status conference. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella; and, defense attorney Richard Michel present. Court Reporter/ESR Henri LeGendre. Status conference held concerning dft's efforts to retain new counsel. Set continued conference for 12:30 on 4/11/94 for Alphonse Persico before Judge Charles P. Sifton . (Conte, Daniela) (Entered: 03/07/1994)
03/07/1994	705	ORDER as to Alphonse Persico. Metropolitan Correctional Center is to maintain custody of dft A. Persico until 3/11/94 at the close of business or pending further order of this Court (Signed by Judge Charles P. Sifton, dated: 3/4/94). (Conte, Daniela) (Entered: 03/07/1994)
03/07/1994	708	

		TRANSCRIPT of pretrial conference before Judge Sifton filed in case for date of 1/10/94 at 9:30AM. AUSA George Stamboulidis, Andrew Weissman, Ellen Corcella; and, defense attorneys Barry Slotnick, Mark Baker, Michael Washor, Joel Winograd, Salvatore Marinello, Melvyn Roth, Mithcell Golub, Frank Lopez, Joshua Dratel, Marion Seltzer, Martin Goldberg, Bruce Maffeo and Matthew Brief present. Court Reporter/ESR: Jeff Howell. (Conte, Daniela) (Rocco, Christine). (Entered: 03/07/1994)
03/07/1994	710	TRANSCRIPT of hearing before Judge Sifton filed in case for date of 1/13/94. AUSA George Stamboulidis, Andrew Weissman and Ellen Corcella; and, defense attorneys Barry Slotnick, Mark Baker, Michael Washor, Joel Winograd, Salvatore Marinello, Melvyn Roth and Marion Seltzer present. Court Reporter/ESR: Mark Gjelaaj. (Conte, Daniela) (Rocco, Christine). (Entered: 03/07/1994)
03/07/1994	711	TRANSCRIPT of proceeding before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Alphonse Persico, Theodore Persico, Richard Fusco for dates of 1/14/94 at 2:00. AUSA George Stamboulidis; and, defense attorneys Barry Slotnick for dft A. Persico; Michael Washor for dft T. Persico; Salvatore Marinello for dft J. Russo; Melvyn Roth for dft A. Russo; Marvin Segal for dft R. Fusco; Marion Seltzer for dft Monteleone and Martin Goldberg for dft Fiorenza all present. Court Reporter/ESR: Mark Gjelaaj. (Conte, Daniela) (Rocco, Christine). (Entered: 03/07/1994)
03/09/1994	716	CALENDAR ENTRY as to Alphonse Persico, Joseph Russo, Anthony Russo, Richard Fusco, Joseph Monteleone SR., Lawrence A. Fiorenza ; Case called before Judge Charles P. Sifton on date of 3/9/94 at 9:30a.m. for trial. Court Reporter Burt Sulzer. AUSA George Stamboulidis, Andrew Weissman, and Ellen Corcella. Case called. Deft's and counsel present. trial resumed. A mistrial declared as to deft Richard Fusco. Deft Fusco is severed from the other defts and will be tried with deft Alphonse Persico. beginning 9/6/94. Trial continued to 3/10/94. (Dobkin, David) (Entered: 03/11/1994)
03/10/1994	717	CALENDAR ENTRY as to Alphonse Persico, Joseph Russo, Anthony Russo, Richard Fusco, Joseph Monteleone SR., Lawrence A. Fiorenza ; Case called before Judge Charles P. Sifton on date of 3/10/94 for trial. Court Reporter Burt Sulzer. AUSA George Stamboulidis, Andrew Weissman, and Ellen Corcella. Case called. Deft's and counsel present. Trial resumed. Trial to continue to 4/11/94. (Dobkin, David) (Entered: 03/11/1994)
03/11/1994	718	ORDER of excludable delay from 1/26/94 to 9/6/94 as to Alphonse Persico (Signed by Judge Charles P. Sifton , dated: 3/9/94) (Dobkin, David) (Entered: 03/11/1994)
03/11/1994	724	CALENDAR ENTRY as to Alphonse Persico ; Case called before Judge Charles P. Sifton on date of 3/11/94 for status conference, set status conference for 12:30 3/30/94 for Alphonse Persico before Judge Charles P. Sifton , reset jury selection for 6/13/94 for Alphonse Persico before Judge Charles P. Sifton , set Jury trial for 6/13/94 for Alphonse Persico before Judge Charles P. Sifton Barry Levin appears as new counsel for Alphonse Persico. (fe) (Entered: 03/16/1994)

03/11/1994	725	NOTICE of Appearance for Alphonse Persico by Attorney Barry Levin (fe) (Entered: 03/16/1994)
03/14/1994	720	COPY of letter from AUSA George Stamboulidis to all counsel dated 2/10/94, Re: enclosing 3500 material. (Conte, Daniela) (Entered: 03/14/1994)
03/14/1994	721	COPY of letter from AUSA George Stamboulidis to all counsel dated 2/14/94, Re: forwarding additional 3500 material. (Conte, Daniela) (Entered: 03/14/1994)
03/14/1994	722	TRANSCRIPT of status conference before Judge Sifton filed in case for date of 2/24/94 at 2:00. AUSA Andrew Weissman, Ellen Corcella and George Stamboulidis; and, defense attorneys Mark Baker and Richard Michelle present. Court Reporter/ESR: Roseann Guzzi. (Conte, Daniela) (Entered: 03/14/1994)
03/16/1994	723	ORDER as to Alphonse Persico (Signed by Judge Charles P. Sifton, dated: 3/11/94). The dft is to be housed at the Metropolitan Correctional Facility until 3/30/94. (Conte, Daniela) (Entered: 03/16/1994)
03/18/1994	731	ORDER of excludable delay as to Alphonse Persico for the period of 1/26/94 to 3/11/94 (Signed by Judge Charles P. Sifton, dated: 3/15/94). (Conte, Daniela) (Entered: 03/18/1994)
03/25/1994	733	COPY of letter from AUSA Andrew Weissmann to defense counsel dated 3/22/94, Re: forwarding additional 302 reports. (Conte, Daniela) (Entered: 03/25/1994)
03/29/1994	734	Letter from AUSA Ellen Corcella to defense counsel, dated 3/29/94, Re: forwarding proposed stipulations regarding certain evidence. Enclosures. (Conte, Daniela) (Entered: 03/29/1994)
03/30/1994	738	CALENDAR ENTRY as to Alphonse Persico, and Richard Fusco; Case called before Judge Charles P. Sifton on date of 3/30/94 for status conference. AUSA George Stamboulidis and defense attorneys Barry Levin for dft A. Persico and Marvin Segal for dft Fusco present. Defendants present; in custody. Court Reporter/ESR Mary Ann Daniele. Status conference held. Trial of dfts Alphonse Persico and Richard Fusco are rescheduled from 9/5/94 to 6/13/94 at 9:30AM. Pretrial conference set for 6/7 at 2PM. Any pretrial motions are to be made returnable on or before 5/2/94. Second amended pretrial order signed. Conformed copies given to counsel. Bail motion for Alphonse Persico scheduled for 4/6/94 at 4:30PM; dft's papers by 4/4; gov't's response by 4/5. Counsel for the gov't and dft Fusco are to attempt to agree on a way for the dft to get medical treatment for his high blood pressure. If unable to do so, counsel shall submit their positions in writing and call chambers for an appearance date. (Conte, Daniela) (Entered: 04/04/1994)
04/04/1994	739	ORDER as to Alphonse Persico. The dft is to be housed at the Metropolitan Correctional Facility until 4/6/94 (Signed by Judge Charles P. Sifton, dated: 3/30/94). (Conte, Daniela) (Entered: 04/04/1994)
04/04/1994	740	SCHEDULING ORDER as to Alphonse Persico, Richard Fusco setting Pretrial Conference for 2:00 on 6/7/94 for Alphonse Persico, for Richard

		Fusco ; Motion Filing deadline on 12:00 on 5/2/94 for Alphonse Persico, for Richard Fusco ; Jury Selection for 9:30 on 6/13/94 for Alphonse Persico, for Richard Fusco ; Jury Trial for 9:30 on 6/13/94 for Alphonse Persico, for Richard Fusco (Signed by Judge Charles P. Sifton). (Conte, Daniela) (Entered: 04/04/1994)
04/05/1994	743	MOTION by counsel for Alphonse Persico, dated 4/4/94, for an order releasing the dft on bail pending trial . Motion Hearing/Return date of 4:30 on 4/6/94 for Alphonse Persico [743-1] motion. Affidavit in support attached. (Conte, Daniela) (Entered: 04/05/1994)
04/05/1994	744	Letter from Barry Levin to Judge Sifton of 3/25/94, Re: advising of issues he will address at the 3/30/94 conference. (Conte, Daniela) (Entered: 04/05/1994)
04/05/1994	746	ORDER of excludable delay as to Alphonse Persico, and Richard Fusco for the period of 3/9/94 to 6/13/94 (Signed by Judge Charles P. Sifton, dated: 4/4/94). (Conte, Daniela) (Entered: 04/05/1994)
04/05/1994	747	COPY of letter from Barry Levin to AUSA George Stamboulidis, dated 3/31/94, Re: confirming that documents will be made available to be picked up on 4/1/94. (Conte, Daniela) (Entered: 04/05/1994)
04/07/1994	751	CALENDAR ENTRY as to Alphonse Persico ; Case called before Judge Charles P. Sifton on date of 4/7/94 for Motion hearing Court Reporter/ESR Carmella Jannuzzi For deft. Barry Levine AUSA G.Stamboulidis A.Weissman E.Corcella Deft. appears with counsel Deft's renewed bail application is argued denying [743-1] motion for an order releasing the dft on bail pending trial as to Alphonse Persico (11) (Jackson, Ramona) (Entered: 04/11/1994)
04/08/1994	749	ORDER as to Alphonse Persico (Signed by Judge Charles P. Sifton, dated: 4/6/94). The dft is to be housed at Metropolitan Correctional Center until 4/8/94. (Conte, Daniela) (Entered: 04/08/1994)
04/12/1994	752	TRANSCRIPT of bail application before Judge Sifton filed in case as to Alphonse Persico for date of 4/7/94 at 9:30. AUSA George Stamboulidis and defense attorney Barry Levin present. Court Reporter/ESR: Carmella Jannuzzi. (Conte, Daniela) (Entered: 04/12/1994)
04/12/1994	754	Letter from Barry Levin, counsel for dft A. Persico, to Assistant Warden Gerlinski dated 4/7/94, Re: requesting to know if the dft will be maintained at the Metropolitan Correctional Facility. (Conte, Daniela) (Entered: 04/12/1994)
04/12/1994	755	Letter from Barry Levin to Judge Sifton dated 4/8/94, Re: forwarding a copy of a letter from the undersigned to Assistant Warden Gerlinski dated 4/8/94, in which they have agreed to house dft A. Persico at the Metropolitan Correctional Facility to prepare for trial. He will then be moved to FCI Otisville. (Conte, Daniela) (Entered: 04/12/1994)
04/12/1994	756	ORDER as to Alphonse Persico (Signed by Judge Charles P. Sifton, dated: 4/11/94). The dft is to be housed at the Metropolitan Correctional Facility until 4/29/94. He is then to be housed at FCI Otisville until the

		commencement of trial on 6/6/94, at which time he will be transported back to the Metropolitan Facility. (Conte, Daniela) (Entered: 04/12/1994)
04/18/1994	759	TRANSCRIPT of proceedings before Judge Sifton filed in case as to Alphonse Persico for date of 3/11/94 at 12:45. AUSA Andrew Weissmann and defense attorneys Richard Michel and Barry Levine present. Court Reporter/ESR: Burton Sulzer. (Conte, Daniela) (Entered: 04/18/1994)
04/21/1994	766	COPY of letter from Barry Levin to Officer Wang at the Metorpolitan Correctional Facility, dated 4/18/94, Re: requesting compliance with 2 subpoenas for tape recorded calls. (Conte, Daniela) (Entered: 04/21/1994)
04/26/1994	779	Copy of a letter from Michael S. Washor to AUSA George Stamboulidis dtd. 4/26/94 we have reason to believe that the gov't. is conducting DNA tests in a attmpt to forensically corroborate some of the witnesses' testimony. Please provide counsel with the details of these tests as weel as any of the related results and reports. (Virno (Entered: 05/06/1994)
04/28/1994	771	MOTION by counsel for Alphonse Persico, dated 4/27/94, for an order granting disclosure and inspection of grand jury minutes; to dismiss count 12; severing dft A. Persico from co-defendant Fusco; severing counts 10,11, and 14 for trial; for a hearing to determine the competency of government witness John Pate; determining that certain conversations are inadmissible; and precluding the government from introducing evidence of prior criminal activity . Motion Hearing/Return date of 12:00 on 5/2/94 for Alphonse Persico. Affidavit and exhibits in support attached. (Conte, Daniela) (Entered: 04/28/1994)
04/28/1994	772	MEMORANDUM by counsel for Alphonse Persico, dated 4/27/94, in support of [771-1] motion for an order granting disclosure and inspection of grand jury minutes; to dismiss count 12; severing dft A. Persico from co-defendant Fusco; severing counts 10,11, and 14 for trial; for a hearing to determine the competency of government witness John Pate; determining that certain conversations are inadmissible; and precluding the government from introducing evidence of prior criminal activity. (Conte, Daniela) (Entered: 04/28/1994)
05/02/1994	775	COPY of letter from Barry Levin to AUSA George Stamboulidis, dated 4/22/94, Re: advising of outstanding discovery requests. (Conte, Daniela) (Entered: 05/02/1994)
05/05/1994	793	SUPERSEDING INDICTMENT as to Alphonse Persico (11) count(s) 1s, 2s, 3s, 4s, 5s, 6s, 7s, 8s, 9s, 12s, Joseph Tomasello (12) count(s) 1s, 2s, 3s, 4s, 5s, 6s, 7s, 8s, 9s, 12s, Richard Fusco (14) count(s) 1s, 2s, 3s, 10s, 11s, 12s, 13s . (Conte, Daniela) (Entered: 05/09/1994)
05/06/1994	780	TRANSCRIPT of jury selection before Judge Sifton filed in case for date of 2/1/94 at 11:15. No appearances. Court Reporter/ESR: Frederick Guerino. (Conte, Daniela) (Entered: 05/06/1994)
05/09/1994	799	CALENDAR ENTRY as to Alphonse Persico, and Richard Fusco. Case called before Judge Charles P. Sifton on date of 5/9/94 for conference. ESR/ Roseann Guzzi. AUSA George Stamboulidis present. Dfts present w/ counse.

		Not Guilty Plea by Alphonse Persico on counts 1s, 2s, 3s, 4s, 5s, 6s, 7s, 8s, 9s, 12s, by Richard Fusco on counts 1s, 2s, 10s, 11s, 12s, 13s . Jury selection and trial are adjourned to 6/27/94 at 9:30. An amended pre-trial order will be filed. Counsel are to submit any rproposed jury questionnaires by 5/31/94. (Yuen, Sui May) (Entered: 05/16/1994)
05/09/1994	809	Letter from Barry Levin, counsel for deft Alphonse Persico, to Judge Sifton file dated May 9, 1994. Counsel request that the Court issue an order maintaining Mr. Persico at the Metropolitan Correctional Center pending trial. (Joseph, Derek) (Entered: 05/17/1994)
05/10/1994	795	MEMORANDUM by AUSA George Stamboulidis and Ellen Corcella, as to Alphonse Persico, dated 5/9/94, in opposition to dft's motion for an order granting disclosure and inspection of grand jury minutes; to dismiss count 12; severing dft A. Persico from co-defendant Fusco; severing counts 10,11, and 14 for trial; for a hearing to determine the competency of government witness John Pate; determining that certain conversations are inadmissible; and precluding the government from introducing evidence of prior criminal activity. Exhibits in support attached. (Conte, Daniela) (Entered: 05/10/1994)
05/10/1994	796	COPY of letter from Barry Levin to AUSA George Stamboulidis, dated 4/26/94, Re: a supplemental request for discovery. (Conte, Daniela) (Entered: 05/10/1994)
05/12/1994	810	ORDER that Alphonse Persico, deft in this matter, be transported from the FCI at Otisville, NY, to the Metropolitan Correction Center, NY for a Court appearance on May 16, 1994 and that said deft be detained at the MCC pending further order of this Court. (Signed by Judge Charles P. Sifton , dated: May 12, 1994) (Joseph, Derek) (Entered: 05/17/1994)
05/13/1994	800	MEMORANDUM by USA in opposition to Alphonse Persico's supplemental pretrial motions. (Greves, Liz) (Entered: 05/16/1994)
05/16/1994	803	THIRD AMENDED CRIMINAL PRETRIAL SCHEDULING ORDER as to Alphonse Persico, Richard Fusco setting Pretrial Conference for 2:00 6/13/94 for Alphonse Persico, for Richard Fusco ; Motion Filing deadline on 5/20/94 for Alphonse Persico, for Richard Fusco ; Jury selection 6/27/94 at 9:30 for Alphonse Persico and Richard Fusco; Jury Trial 6/27/94 at 9:30 for Alphonse Persico and Richard Fusco; (by Judge Charles P. Sifton 5/9/94) c/m (Piper, Francine) (Entered: 05/16/1994)
05/16/1994	804	ORDER OF EXCLUDABLE DELAY as to Alphonse Persico, Richard Fusco from 6/13/94 to 6/27/94 (Signed by Judge Charles P. Sifton , dated: 5/9/94) (Piper, Francine) (Entered: 05/16/1994)
05/16/1994	805	Letter dated 5/4/94 from Barry Levin to Wallace H. Cheney, Re: Enclosing two "so ordered" subpoenas signed by Judge Sifton. (Piper, Francine) (Entered: 05/16/1994)
05/16/1994	806	Copy of Letter dated 5/2/94 from George A. Stamboulidis to Barry Levin, Re: Enclosing a copy of the transcript of the testimony of Carmine Sessa from the trial of U.S. v. Theodore Persico. (Piper, Francine) (Entered: 05/16/1994)

05/16/1994	807	Deft Alphonse Persico's Supplemental Memo in further support of his motion for various forms of relief. (Greves, Liz) (Entered: 05/17/1994)
05/16/1994	808	SUPPLEMENTAL MEMORANDUM by USA in opposition to deft Alphonse Persico's supplemental pretrial motions. (Greves, Liz) (Entered: 05/17/1994)
05/17/1994	811	LETTER dtd 5/9/94 to Ms. Corcella from Lois watts re: to acknowledge receipt of subpoena for guest records and to advise that there are three Holiday Inn Hotels in Ann Harbor. (Roker, Michelle) (Entered: 05/17/1994)
05/18/1994	814	TRANSCRIPT of arraignment & motion before Judge Sifton filed in case as to Alphonse Persico, Richard Fusco for dates of 5/9/94; ESR Operator R. Guzzi. (Greves, Liz) (Entered: 05/19/1994)
05/18/1994	815	TRANSCRIPT of bail application before Judge Sifton filed in case as to Alphonse Persico for dates of 5/9/94; ESR Operator R. Guzzi. (Greves, Liz) (Entered: 05/19/1994)
05/19/1994	819	MEMORANDUM by USA in opposition to Alphonse Persico's Motion to dismiss counts 4-9 and racketeering act one, under count one, to sever and for examination of the grand jury minutes. (Yuen, Sui May) (Entered: 05/20/1994)
05/20/1994	816	LETTER dated 5/12/94 from Barry Levin to Judge Sifton requesting that the Judge grant the defense until 5/18/94 to serve their supplemental brief. (fe) (Entered: 05/20/1994)
05/20/1994	818	Copy of letter dated 5/11/94 from Nushin Ghofrany to Samantha Susskind, regarding the movement of deft Persico from MCC to FCI Otisville. (Dobkin, David) (Entered: 05/20/1994)
05/24/1994	824	Ltr. to Mr. Stamboulidis from Barry Levin dtd. 5/17/94 re: confirm that Gov't will copy the following exhibits and forward to my office (see document). (Jackson, Ramona) (Entered: 05/24/1994)
05/24/1994	825	REPLY by Alphonse Persico to government's response to defendant's [771-1] motion for an order granting disclosure and inspection of grand jury minutes; to dismiss count 12; severing deft A. Persico from co-defendant Fusco; severing counts 10,11, and 14 for a hearing to determine the competency of government witness John Pate; determining that certain conversations are inadmissible; and precluding the government from introducing evidence of prior criminal activity. (Asreen, Wendy) (Entered: 05/24/1994)
05/24/1994	827	MOTION by Alphonse Persico for an order, pursuant to Fed. R. Crim. P. 15 permitting the defendant to take the video taped deposition of Greg an inmate at FMC Rochester, Minnesota Motion date of 2:00 5/25/94 for Alphonse Persico [827-1] motion (Roker, Michelle) (Entered: 05/25/1994)
05/24/1994	829	MEMORANDUM OF LAW by Alphonse Persico in support of [827-1] motion for an order, pursuant to Fed. R. Crim. P. 15 permitting defendant to take the video taped deposition of Greg an inmate at FMC Rochester, Minnesota (Roker, Michelle) (Entered: 05/25/1994)

05/25/1994	826	LETTER dtd 5/24/94 to Clerk from Barry Levin re: enclosing (attached) Notice of Motion & Affidavit in Support. (Roker, Michelle) (Entered: 05/25/1994)
05/25/1994	828	AFFIDAVIT IN SUPPORT (attached to doc. #827) by Alphonse Persico in support of [827-1] motion for an order, pursuant to Fed. R. Crim. P. 15 permitting defendant to take the video taped deposition of Greg an inmate at FMC Rochester, Minnesota (Roker, Michelle) (Entered: 05/25/1994)
05/25/1994	832	CALENDAR ENTRY as to Alphonse Persico ; Case called before Judge Charles P. Sifton on date of May 25, 1994, at 2 p.m., for motion hearing. Court Reporter/ESR - Robert Eppenstein, ESR. Govt. rep. by George Stamboulidis and Ellen Corcella. Deft. A. Persico present, in custody, and rep. by Barry Levin. Deft. A. Persico's pretrial motions argued and continued to 5/31/94 at 2 p.m. Deft.'s appl. for an order permitting the deft. to take a videotaped deposition of Greg Scarpa forthwith at FMC Rochester, Minn., is continued to 5/31/94 at 2 p.m. (Vaughn, Terry) (Entered: 05/31/1994)
05/25/1994		Added Government Attorney Ellen M. Corcella. (Vaughn, Terry) (Entered: 05/31/1994)
05/26/1994	830	TRANSCRIPT filed as to defts. Persico, J. Russo, A. Russo, Monteleone and Fiorenza, for a conference held before Judge Sifton on May 10, 1994. AUSA: Valerie Caproni. Court Reporter: Gene Rudolph (Asreen, Wendy) (Entered: 05/27/1994)
05/26/1994	831	TRANSCRIPT filed for conference held before Judge Sifton on 05/12/94. AUSA: George Syamboulidis, Karen Popp, Ellen Corcella. Defense Counsel: Salvatoe Marinello. Also present: Elizabeth Baren. Court Reporter: Gene Rudolph. (Asreen, Wendy) (Entered: 05/27/1994)
05/31/1994	836	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 5/31/94 at 2:30 for motion hearing. AUSA George Stamboulidis and Ellen Corcella and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Burt Sulzer. Motion of defendant for leave to depose Gregory Scarpa is heard. The application is adjourned to permit Stephen Kartogener, former counsel for Mr. Scarpa, to consult with him and attempt to determine his position. (Conte, Daniela) (Entered: 06/03/1994)
06/02/1994	835	COPY of letter from AUSA Ellen Corecella to Barry Levin, Esq., dated 5/31/94, Re: forwarding a copy of Dr. Kucharski's handwritten report. Enclosures. (Conte, Daniela) (Entered: 06/02/1994)
06/06/1994	837	RESPONSE by USA as to Alphonse Persico re: in opposition to his motion for a new trial as to counts 1,2,9,10,11 and 12. Response submitted in the form of a letter from AUSA Ellen Corcella and George Stamboulidis to Judge Sifton of 6/3/94. (Conte, Daniela) (Entered: 06/06/1994)
06/07/1994	839	Copy of letter dated 6/7/94 from AUSA Ellen M. Corcella to Mr. Levin enclosing copies of medical examiners report, crime scene report & lab report pertaining to the Steven Piazza homicide; copies of 3500-78(J26) thru 3500-

		78(J82) for John Pate; copies of GX 624H, GX 624 (H-1) & GX 624N. (Greves, Liz) (Entered: 06/09/1994)
06/10/1994	843	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 6/10/94 at 2:00 for pre-trial conference. AUSA George Stamboulidis and Ellen Corcella and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR not indicated. Pre-trial conference held. (Conte, Daniela) (Entered: 06/15/1994)
06/14/1994	841	COPY of letter from AUSA Ellen Corcella to Barry Levin, Esq., dated 6/13/94, Re: in response to his 6/10/94 letter. All requested materials that he is entitled to have been received. Other material is 3500 material and will be turned over when the witnesses testify. (Conte, Daniela) (Entered: 06/14/1994)
06/20/1994	844	RESPONSE by USA as to Alphonse Persico in opposition to his motion in limine requesting to examine and photocopy materials the government wishes to use at trial. Response submitted in the form of a letter from AUSA Ellen Corcella to Judge Sifton dated 6/18/94. (Conte, Daniela) (Entered: 06/20/1994)
06/20/1994	846	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 6/20/94 at 9:30 for jury selection and trial. AUSA George Stamboulidis and Ellen Corcella present. Defense attorney Barry Levin and defendant not present. Court Reporter/ESR Fred Guerino. They jury panel completes questionnaires. (Conte, Daniela) (Entered: 06/22/1994)
06/22/1994	845	MEMO/ORDER as to Alphonse Persico denying [771-1] motion for an order granting disclosure and inspection of grand jury minutes; to dismiss count 12; severing dft A. Persico from co-defendant Fusco; severing counts 10,11, and 14 for for a hearing to determine the competency of government witness John Pate; determining that certain conversations are inadmissible; and precluding the government from introducing evidence of prior criminal activity as to Alphonse Persico (11) (Signed by Judge Charles P. Sifton, dated: 6/20/94). The government will not introduce evidence relating to the murder of Michael Devine. (Conte, Daniela) (Entered: 06/22/1994)
06/24/1994	848	ORDER as to Alphonse Persico signed by Judge Charles P. Sifton, dated: 6/22/94. The jurors are to remain anonymous. Anyone receiving actual notice of this order is not to contact or attempt to determine the identity of the jurors without leave of the Court; nor to communicate the contents of this order to anyone receiving a questionnaire. (Conte, Daniela) (Entered: 06/24/1994)
06/24/1994	849	Acknowledgment of receipt of juror questionnaires as to Alphonse Persico signed by counsel for the government and defense. (Conte, Daniela) (Entered: 06/24/1994)
06/24/1994	850	COPY of letter from AUSA George Stamboulidis to Barry Levin, Esq., dated 6/22/94, Re: forwarding copies of two additional tape recordings intended to be used at trial. (Received without enclosures.) (Conte, Daniela) (Entered: 06/24/1994)
06/27/1994	852	

		RESPONSE by USA as to Alphonse Persico in opposition to defendant's request to represent himself as co-counsel. Response submitted in the form of a letter from AUSA Ellen Corcella and George Stamboulidis to Judge Sifton of 6/24/94. (Conte, Daniela) (Entered: 06/27/1994)
06/27/1994	853	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 6/27/94 at 9:30 for jury selection and trial. AUSA George Stamboulidis and Ellen Corcella and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Carmella Jannuzzi. Jury selection begun. Trial continued to 6/28/94. (Conte, Daniela) (Entered: 06/28/1994)
06/28/1994	854	Letter from Ellen Corcella and George Stamboulidis to Judge Sifton dated 6/27/94, Re: moving in limine to introduce evidence that Alphonse Persico was involved in two assaults. (Conte, Daniela) (Entered: 06/28/1994)
06/28/1994	855	COPY of letter from AUSA Ellen Corcella to Barry Levin, Esq., dated 6/28/94, Re: forwarding telephone records from FCI Milan, Michigan. (Received without enclosures.) (Conte, Daniela) (Entered: 06/28/1994)
06/28/1994	856	TRANSCRIPT of proceedings before Judge Sifton filed in case as to Alphonse Persico for date of 5/31/94 at 2:00. AUSA George Stamboulidis and defense attorney Barry Levin present. Court Reporter/ESR: Burton Sulzer. (Conte, Daniela) (Entered: 06/28/1994)
06/28/1994	859	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 6/28/94 at 9:30 for jury selection and trial. AUSA George Stamboulidis and Ellen Corcella and defense attorney Barry Levin present. Court Reporter/ESR Carmella Jannuzzi. Defendant present; in custody. Trial resumed. Jury selection continued. Trial continued to 6/29/94. (Conte, Daniela) (Entered: 07/05/1994)
06/29/1994	857	COPY of letter from AUSA Ellen Corcella to Barry Levin, Esq., dated 6/28/94, RE: forwarding copies of Government Exhibits 624 X and 624 X-1. (Received without enclosures.) (Conte, Daniela) (Entered: 06/29/1994)
06/30/1994	863	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 6/30/94 at 9:30 for jury selection and trial. AUSA George Stamboulidis and Ellen Corcella and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Carmella Jannuzzi. Trial resumed. Jury selection resumed and concluded. (Conte, Daniela) (Entered: 07/06/1994)
07/01/1994	1364	LETTER dated 6/29/94 from Martin Goldberg, Esq., to Judge Sifton, requesting a hearing as to whether Gregory Scarpa was a "co-conspirator". (Asreen, Wendy) (Entered: 07/02/1997)
07/05/1994	858	Order of Sustenance for lunch and transportation for 18 jurors and 3 US Marshals beginning 6/30/94 and continuing each day until the conclusion of trial as to Alphonse Persico (Signed by Judge Charles P. Sifton on 6/29/94). (Conte, Daniela) (Entered: 07/05/1994)
07/05/1994		

		Voir dire begun as to Alphonse Persico (11) count(s) 1s, 2s, 3s, 4s, 5s, 6s, 7s, 8s, 9s, 12s on 7/5/94. (Conte, Daniela) (Entered: 07/07/1994)
07/05/1994		Jury trial as to Alphonse Persico begun on 7/5/94 before Judge Sifton. (Conte, Daniela) (Entered: 07/07/1994)
07/05/1994	865	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/5/94 for trial. AUSA George Stamboulidis and Ellen Corcella and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Marsha Diamond. Jury sworn and opening statements given. Trial continued to 7/6/94. (Conte, Daniela) (Entered: 07/07/1994)
07/06/1994	860	COPY of letter from AUSA Ellen Corcella and George Stamboulidis to Barry Levin, Esq., dated 6/29/94, RE: discovery issues pertaining to trial. (Conte, Daniela) (Entered: 07/06/1994)
07/06/1994	861	COPY of letter from AUSA George Stamboulidis to Barry Levin, Esq., dated 7/1/94 Re: confirming that an additional affidavit of Special Agent Christopher Favo has been turned over to him. (Conte, Daniela) (Entered: 07/06/1994)
07/06/1994	862	COPY of letter from AUSA George Stamboulidis and Ellen Corcella to Barry Levin, Esq., dated 7/5/94, Re: forwarding medical records of John Pate. (Received without enclosures.) (Conte, Daniela) (Entered: 07/06/1994)
07/06/1994	866	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/6/94 for trial. AUSA George Stamboulidis and Ellen Corcella and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Marsha Diamond. Trial resumed and continued to 7/7/94. (Conte, Daniela) (Entered: 07/07/1994)
07/07/1994	869	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/7/94 at 9:30 for trial. AUSA George Stamboulidis and Ellen Corecella; and defense attorney Barry Levin present. Defendants present; in custody. Court Reporter/ESR Marsha Diamond. Trial resumed and continued to 7/8/94. (Conte, Daniela) (Entered: 07/11/1994)
07/08/1994	870	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/8/94 at 9:30 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Court Reporter/ESR Marsha Diamond. Trial resumed and continued to 7/11/94. (Conte, Daniela) (Entered: 07/11/1994)
07/11/1994	868	COPY of letter from AUSA George Stamboulidis to Barry Levin dated 7/8/94, Re: furnishing a financial report on John Pate. (Received without enclosures.) (Conte, Daniela) (Entered: 07/11/1994)
07/11/1994	871	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/11/94 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Defendant present. Court Reporter/ESR Sheldon Silverman. Trial resumed and continued to 7/12/94. (Conte, Daniela) (Entered: 07/12/1994)

07/12/1994	872	COPY of letter from AUSA George Stamboulidis to Barry Levin dated 7/8/94, Re: forwarding 3500 material as to New York City Police Detective Vito Aleo. (Conte, Daniela) (Entered: 07/12/1994)
07/12/1994	873	COPY of letter from AUSA Ellen Corcella to Barry Levin, dated 7/11/94, Re: advising that the government will seek to admit \$10,000.00 as evidence. (Conte, Daniela) (Entered: 07/12/1994)
07/12/1994	874	CALENDAR ENTRY as to Alphonse Persico ; Case called before Judge Charles P. Sifton on date of 7/12/94 for trial Court Reporter/ESR Sheldon Silverman. Trial continued to 7/13/94. (fe) (Entered: 07/13/1994)
07/13/1994	875	Ltr. to J.Sifton from Ellen M.Corcella dtd. 7/12/94 RESPONSE by USA as to Alphonse Persico in support of request to introduce certain statements made by deft. to R.Ross (Jackson, Ramona) (Entered: 07/13/1994)
07/13/1994	876	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/13/94 at 9:30 for trial. AUSA George Stamboulidis and Ellen Corcella present. Defendant present; in custody. Court Reporter/ESR not indicated. Trial resumed. Juror #6 is excused by the Court and is replaced by alternate juror #1. Trial continued to 7/14/94. (Conte, Daniela) (Entered: 07/14/1994)
07/14/1994	877	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/14/94 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Court Reporter/ESR Shelly Silverman. Trial resumed and continued to 7/15/94. (Conte, Daniela) (Entered: 07/18/1994)
07/18/1994	879	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/18/94 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Fred Guerino. Trial resumed. Motion of Bruce Maffeo, Esq., for an order quashing a subpoena is argued. Mr. Maffeo is to submit additional papers in support by 7/20/94; defendant is to respond by 7/21/94; argument is continued to 7/22/94 at 9:30AM. Trial continued to 7/19/94. (Conte, Daniela) (Entered: 07/19/1994)
07/19/1994	878	ORDER as to Alphonse Persico signed by Judge Charles P. Sifton, dated: 7/18/94. Defendant Persico is to attend meetings between his attorney, Barry Levin, and incarcerated witnesses who have to be transported to the Metropolitan Correctional Center pursuant to writs of habeas corpus ad testificandum provided that the witnesses consent in writing to be interviewed by Mr. Levin and defendant Persico. (Conte, Daniela) (Entered: 07/19/1994)
07/19/1994	880	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/19/94 at 9:30 for trial. AUSA George Stamboulidis and Ellen Corcella and defense attorney Barry Levin present. Court Reporter/ESR Fred Guerino. Trial resumed and continued to 7/20/94. (Conte, Daniela) (Entered: 07/20/1994)
07/20/1994	881	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/20/94 for trial. AUSA George Stamboulidis and

		Ellen Corcella and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Fred Guerino. Trial resumed and continued to 7/21/94. (Conte, Daniela) (Entered: 07/21/1994)
07/21/1994	882	ORDER as to Alphonse Persico and Carmine Persico (Signed by Judge Charles P. Sifton, dated: 7/20/94). Defendant Alphonse Persico is permitted to meet with defense witness Carmine Persico and their respective counsel to conduct defense conferences while both are incarcerated at the Metropolitan Correctional Center from the time of this order until the completion of Carmine Persico's testimony. (Conte, Daniela) (Entered: 07/21/1994)
07/21/1994	883	CALENDAR ENTRY as to Alphonse Persico ; Case called before Judge Charles P. Sifton on date of 7/21/94 for trial Court Reporter/ESR Fred Guerino. Trial continued to 7/25/94. (fe) (Entered: 07/25/1994)
07/25/1994	884	COPY OF A LETTER dated 7/24/94 from Ellen M. Corcella to Mr. Levin enclosing a financial report regarding Lawrence Mazza. (fe) (Entered: 07/25/1994)
07/25/1994	886	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/25/94 for trial. AUSA George Stamboulidis and Ellen Corcella and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Anthony Mancuso. Trial resumed and continued to 7/26/94. (Conte, Daniela) (Entered: 07/27/1994)
07/26/1994	887	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/26/94 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Anthony Mancuso. Trial resumed and continued to 7/27/94. (Conte, Daniela) (Entered: 07/27/1994)
07/27/1994	885	ORDER signed by Judge Charles P. Sifton, dated: 7/25/94. George Lombardi, an incarcerated defense witness, is to be transported and detained at the Metropolitan Correctional Center through the completion of his testimony. (Conte, Daniela) (Entered: 07/27/1994)
07/27/1994	889	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/27/94 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Defendant present; in custody. Court Reporter/ESR Anthony Mancuso. Trial resumed. Government rests. Trial continued to 7/28/94. (Conte, Daniela) (Entered: 07/28/1994)
07/28/1994	890	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 7/28/94 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Court Reporter/ESR Anthony Mancuso. Trial resumed. The defendant's Rule 29 motion for a judgment of acquittal is denied. The defendant rests. Trial continued to 8/1/94. (Conte, Daniela) (Entered: 07/29/1994)
07/29/1994	892	Letter dtd. 6/21/94 from Salvatore Compoccia to AUSA, George Stamboulidis requesting information on J. Angellino. (Asreen, Wendy) (Entered: 08/01/1994)

08/01/1994	896	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 8/1/94 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorneys Barry Levin and Kelly Guthy present. Court Reporter/ESR Gene Rudolph. Trial resumed. Charging conference held. Government's summation is continued to 8/2/94. (Conte, Daniela) (Entered: 08/02/1994)
08/02/1994	895	NOTICE OF INTENT to Call Witness(es) Re: Alibi as to Alphonse Persico. Notice filed in the form of a copy of a letter from Barry Levin to AUSA George Stamboulidis dated 7/25/94. (Conte, Daniela) (Entered: 08/02/1994)
08/02/1994	897	ORDER of excludable delay as to Alphonse Persico, and Richard Fusco for the period of 5/2/94 to 6/27/94 (Signed by Judge Charles P. Sifton, dated: 8/1/94). (Conte, Daniela) (Entered: 08/02/1994)
08/02/1994	898	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 8/2/94 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorneys Barry Levin and Kelly Guthy present. Court Reporter/ESR Gene Rudolph. Trial resumed. Defendant's summation given. Government's rebuttal summation given. Trial continued to 8/3/94. (Conte, Daniela) (Entered: 08/03/1994)
08/03/1994	901	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 8/3/94 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Court Reporter/ESR Gene Rudolph. Trial resumed. The Court charges the jury. Alternate jurors excused. Deputy US Marshal sworn. The jury retires to deliberate at 1:00PM. Trial continued to 8/4/94. (Conte, Daniela) (Entered: 08/09/1994)
08/04/1994	902	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 8/4/94 at 9:30 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Court Reporter/ESR Gene Rudolph. Trial resumed. The jury resumes its deliberations. Trial continued to 8/5/94. (Conte, Daniela) (Entered: 08/09/1994)
08/05/1994	907	LETTER dated 8/4/94 from Alan S. Futerfas to Judge Sifton requesting an adjournment of the argument of motions and sentencing currently scheduled for 8/12/94 at 9:30. (fe) (Entered: 08/17/1994)
08/05/1994	903	CALENDAR ENTRY as to Alphonse Persico; Case called before Judge Charles P. Sifton on date of 8/5/94 at 9:30 for trial. AUSA George Stamboulidis and Ellen Corcella; and defense attorney Barry Levin present. Court Reporter/ESR Gene Rudolph. Trial resumed. The jury resumes its deliberations at 9:20AM. The jury suspends its deliberations at 3:30PM. Trial continued to 8/8/94. (Conte, Daniela) (Entered: 08/09/1994)
08/08/1994	908	CALENDAR ENTRY as to Alphonse Persico ; Case called before Judge Charles P. Sifton on date of 8/8/94 for trial Court Reporter/ESR Perry Auerbach, Dft and counsel present. Trial resumed. The jury resumes its deliberations at 10:00. Not Guilty: Alphonse Persico (11) count(s) 1s, 1, 2s, 2,

		3s, 3, 4s, 4, 5s, 5, 6s, 6, 7s, 7, 8s, 8, 9s, 9, 12s, 12 Jury polled and discharged. The dft is discharged. Trial concluded. (fe) (Entered: 08/17/1994)
08/09/1994	904	NOTICE of change of address by counsel for Alphonse Persico. Alan Futerfas has moved to 260 Madison Avenue, 22nd Floor, New York, New York 10016; (212) 684-8400; fax (212) 679-1844. (Conte, Daniela) (Entered: 08/09/1994)
08/17/1994	909	Proposed Verdict Form by counsel for Alphonse Persico. (Conte, Daniela) (Entered: 08/17/1994)
08/17/1994	910	JUDGMENT Alphonse Persico (11) count(s) 1s, 2s , 3s , 4s , 5s , 6s , 7s , 8s , 9s , 12s . The defendant was found not guilty to any charges in the indictment. (Signed by Judge Charles P. Sifton, Dated 8/15/94). (Conte, Daniela) (Entered: 08/17/1994)
08/23/1994	1365	LETTER dated 8/18/94 from Martin Goldberg, Esq., to Judge Sifton, requesting a complete set of the Scarpa reports and related information. (Asreen, Wendy) (Entered: 07/02/1997)
09/12/1994	915	MEMORANDUM by AUSA Ellen Corcella, Leon Rodriguez and George Stamboulidis dated 9/27/93, in opposition to defendants' pretrial motions for separte trials, dismissal or redaction of counts; discovery; suppression. Exhibits in support attached. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	916	Appendix A-1, Fusco Pager Clone, submitted by USA in opposition to defendants' pretrial motions. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	917	Appendix A-1, Quattrache electronic surveillance (12/91-2/92) submitted by USA in opposition to defendants' pretrial motions. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	918	Appendix A-1, Quattrache electronic surveillance (3/92-8/92) submitted by USA in opposition to defendants' pretrial motions. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	919	Appendix A-2, McLaughlin electronic surveillance, submitted by USA in opposition to defendants' pretrial motions. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	920	Appendix A-3, Ambrosino electronic surveillance submitted by USA in opposition to defendants' pretrial motions. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	921	Appendix A-4, Lompoc electronic surveillance, submitted by USA in opposition to defendants' pretrial motions. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	925	Bill of Particulars submitted by the USA. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	926	ORDER, signed by Judge Charles P. Sifton, dated: 2/7/94. Juror questionnaires are to be distributed to all counsel commencing 2/7/94 at 10:00. Jury selection will be anonymous. No attempts to contact or identify the jurors is to be made. (Conte, Daniela) (Entered: 09/12/1994)

09/12/1994	927	Letter from Carol Hawthorne to Judge Sifton dated 2/17/94, Re: in response to a subpoena for telephone recordings from the Federal Bureau of Prisons. Recordings sent to chambers. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	929	Letter from AUSA George Stamboulidis to Judge Sifton dated 4/6/94, Re: in opposition to defendant Alphonse Persico's motion for an order releasing him on bail. Enclosures. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	930	Letter from Barry Levin to Judge Sifton dated 4/27/94, Re: requesting a trial date to resolve discovery disputes. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	931	Letter from Barry Levin to Judge Sifton dated 5/4/94, RE: in further support of defendant Alphonse Persico's motions for inspection of grand jury minutes and dismissal of the indictment. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	932	Letter from AUSA Ellen Corcella and George Stamboulidis to Judge Sifton dated 5/31/94, RE: advising that the government has no objections to defendant Alphonse Persico's request to depose Gregory Scarpa, Sr. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	934	CORRECTED copy of the government's proposed jury questionnaire submitted by AUSA George Stamboulidis as to Alphonse Persico. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	935	Letter from Barry Levin to Judge Sifton dated 6/13/94, Re: in support of defendant Alphonse Persico's application to preclude any testimony from co-defendant Lawrence Mazza concerning conversations had while incarcerated together. Enclosures. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	936	MOTION by counsel for Alphonse Persico, dated 6/10/94, in limine to prevent the government from introducing evidence of prior convictions at trial . (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	937	Letter from Barry Levin to Judge Sifton dated 6/14/94, Re: the government's questionnaire; subpoenas to the NYC Police Department; defendant Alphonse Persico's participation as co-counsel on his own behalf. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	938	RESPONSE by USA as to Alphonse Persico in opposition to defendant's letter regarding the admissibility of statements made by him to co-defendant Lawrence Mazza while incarcerated. Response submitted in the form of a letter from AUSA Ellen Corcella to Judge Sifton dated 6/15/94. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	939	Letter from Barry Levin to Judge Sifton dated 6/15/94, Re: forwarding subpoenas to be so ordered for defendant Alphonse Persico's prison records. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	940	MEMORANDUM by counsel for Alphonse Persico, dated 6/16/94, in opposition to the government's motion for an anonymous jury. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	941	

		MOTION by counsel for Alphonse Persico, dated 6/13/94, in limine to preclude the use of the term "Persico Faction" and references to defendant as "Allie Boy" . (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	942	RESPONSE by USA as to Alphonse Persico in opposition to defendant's motion in limine to admit an affidavit by Gregory Scarpa. Response submitted in the form of a letter from George Stamboulidis and Ellen Corcella to Judge Sifton dated 6/21/94. Enclosures. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	943	Letter from AUSA George Stamboulidis and Ellen Corcella to Judge Sifton dated 6/23/94, Re: in support of the admissibility of statements by co-conspirators. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	944	Letter MOTION by Barry Levin, counsel for Alphonse Persico to Judge Sifton dated 6/23/94, for the production of Greg Scarpa's informant file and the unsealing of his sentence before Judge Weinstein . Enclosure. (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	945	COPY of letter from AUSA George Stamboulidis to Barry Levin dated 7/1/94, Re: forwarding a redacted version of 3500 material. (Courtesy copy to the Court without enclosures.) (Conte, Daniela) (Entered: 09/12/1994)
09/12/1994	946	Proposed Jury Instructions submitted by counsel for Alphonse Persico. (Conte, Daniela) (Entered: 09/12/1994)
09/13/1994	947	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 8/3/94 at 9:30. AUSA George Stamboulidis and Ellen Corcella and defense counsel Barry Levin and Kelly Guthy present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) (Entered: 09/13/1994)
09/14/1994	950	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 8/3/94 at 9:30. AUSA George Stamboulidis and Ellen Corcella and defense attorneys Barry Levin and Kelly Guthy present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) (Entered: 09/14/1994)
09/16/1994	952	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 8/8/94 at 9:30. AUSA Ellen Corcella and George Stamboulidis and defense attorneys Barry Levin and Kelly Guthy present. Court Reporter/ESR: Perry Auerbach. (Conte, Daniela) (Entered: 09/16/1994)
09/29/1994	955	ORDER as to Victor J. Orena, Pasquale Amato, Carmine Sessa, Michael Sessa, Lawrence A. Fiorenza, Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Joseph Tomasello, Theodore Persico, Richard Fusco, James Delmastro, granting an adjournment of one week til 10/7/94 for the Govt to file responses to the post-trial motions (Signed by Judge Charles P. Sifton , dated: 9/29/94) (fe) (Entered: 09/29/1994)
09/29/1994	956	LETTER dated 7/16/94 from Ellen Corcella/George A. Stamboulidis requesting that the Govt's in limine motion be granted. (fe) (Entered: 09/29/1994)
10/05/1994	957	ORDER, resetting the briefing schedule for defendants' motions for new trials (Signed by Judge Charles P. Sifton dated: 9/30/94). The government's

		response is due by 10/14/94; defendants to file reply briefs by 10/19/94; return date set for 10/21/94 at 9:30. So ordered on letter from AUSA Ellen Corcella to Judge Sifton dated 9/29/94. (Conte, Daniela) (Entered: 10/05/1994)
10/11/1994	1366	LETTER dated 10/10/94 from Martin Goldberg, Esq., to Judge Sifton, in further support of request for hearings and complete disclosure and joins the requests of co-counsel for a new trial. (Asreen, Wendy) (Entered: 07/02/1997)
10/14/1994	1312	MEMORANDUM by USA in in opposition to motions for new trial. (Asreen, Wendy) (Entered: 04/09/1997)
10/19/1994	960	ORDER, resetting the motion hearing date for the Rule 29 and 33 motions to 10/25/94 at 9:30 (Signed by Judge Charles P. Sifton, dated: 10/6/94). So ordered on letter from AUSA Ellen Corcella to Judge Sifton dated 10/4/94. (Conte, Daniela) (Entered: 10/19/1994)
10/24/1994	1367	LETTER dated 10/18/94 from Martin Goldberg, Esq., to Judge Sifton, in further support of motion for a new trial. (Asreen, Wendy) (Entered: 07/02/1997)
10/26/1994	964	TRANSCRIPT of jury selection before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Theodore Persico, Richard Fusco for date of 2/8/94. Appearances by AUSA George Stamboulidis, Andrew Weissmann and Ellen Corcella; and defense attorneys Michael Washor and Joel Winograd for dft T. Persico; Salvatore Marinello for dft J. Russo; Melvyn Roth for dft A. Russo; Marvin Segal for dft Fusco; Richard Rosenkranz for dft Zambardi; Marion Seltzer for dft Monteleone; and Martin Goldberg for dft Fiorenza. Court Reporter/ESR: Anthony Mancuso. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	965	TRANSCRIPT of proceedings before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Theodore Persico, Richard Fusco for date of 2/9/94. Attorneys for the government and defendants present. Court Reporter/ESR: Anthony Mancuso. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	966	TRANSCRIPT of proceedings before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Theodore Persico, Richard Fusco for date of 2/10/94. Attorneys for government and defendants present. Court Reporter/ESR: Anthony Mancuso.(Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	967	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Theodore Persico, Richard Fusco for date of 2/14/94. Attorneys for the government and defendants present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)

10/26/1994	968	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Theodore Persico, Richard Fusco for date of 2/15/94. Attorneys for government and defendants present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	969	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Theodore Persico, Richard Fusco for date of 2/16/94. Attorneys for the government and defendants present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	970	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Theodore Persico, Richard Fusco for date of 2/17/94. Attorneys for the government and defendants present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	971	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Theodore Persico, Richard Fusco for date of 2/18/94. Attorneys for the government and defendants present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	972	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Theodore Persico, Richard Fusco for date of 3/7/94. Attorneys for the government and defendants present. Court Reporter/ESR: Anthony Mancuso. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	973	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Theodore Persico for date of 3/14/94. Attorneys for the government and defendants present. Court Reporter/ESR: Henry Shapiro. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	974	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Theodore Persico for date of 3/14/94. Attorneys for the government and defendants present. Court Reporter/ESR: Henry Shapiro. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	975	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Theodore Persico for date of 3/15/94. Attorneys for the government and defendants present. Court Reporter/ESR: Henry Shapiro. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	976	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Theodore Persico for date of 3/16/94. Attorneys for the government and defendants

		present. Court Reporter/ESR: Henry Shapiro. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	977	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Theodore Persico for date of 3/17/94. Attorneys for the government and defendants present. Court Reporter/ESR: Henry Shapiro. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	978	TRANSCRIPT of trial before Judge Sifton filed in case as to Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Joseph Monteleone SR., Theodore Persico for date of 3/29/94. Attorneys for the government and defendants present. Court Reporter/ESR: Michael Picozzi. (Conte, Daniela) Modified on 10/26/1994 (Entered: 10/26/1994)
10/26/1994	990	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 7/11/94. AUSA George Stamboulidis and Ellen Corcella and defense attorneys Barry Levin and Kelly Guthy present. Court Reporter/ESR: Sheldon Silverman. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	991	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 7/12/94. Government and defense attorneys present. Court Reporter/ESR: Sheldon Silverman. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	992	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 7/13/94. Government and defense attorneys present. Court Reporter/ESR: Sheldon Silverman. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	993	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 7/14/94. Government and defense attorneys present. Court Reporter/ESR: Sheldon Silverman. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	994	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 7/20/94. Government and defense attorneys present. Court Reporter/ESR: Frederick Guerino. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	995	TRANSCRIPT of proceedings before Judge Sifton filed in case as to Alphonse Persico for date of 7/25/94. Government and defense attorneys present. Court Reporter/ESR: Anthony Mancuso. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	996	TRANSCRIPT of proceedings before Judge Sifton filed in case as to Alphonse Persico for date of 7/26/94. Government and defense attorneys present. Court Reporter/ESR: Anthony Mancuso. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	997	TRANSCRIPT of proceedings before Judge Sifton filed in case as to Alphonse Persico for date of 7/27/94. Government and defense attorneys present. Court Reporter/ESR: Anthony Mancuso. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	998	TRANSCRIPT of proceedings before Judge Sifton filed in case as to Alphonse Persico for date of 7/28/94. Government and defense attorneys

		present. Court Reporter/ESR: Anthony Mancuso. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	999	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 8/1/94. Government and defense attorneys present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	1000	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 8/2/94. Government and defense attorneys present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	1001	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 8/3/94. Government and defense attorneys present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	1002	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 8/4/94. Government and defense attorneys present. Court Reporter/ESR: Gene Rudolph. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	1003	TRANSCRIPT of proceedings before Judge Sifton filed in case as to Alphonse Persico for date of 8/5/94. Government and defense attorneys present. Court Reporter/ESR: Anthony Mancuso. (Conte, Daniela) (Entered: 10/26/1994)
10/26/1994	1004	TRANSCRIPT of trial before Judge Sifton filed in case as to Alphonse Persico for date of 8/8/94. Government and defense attorneys present. Court Reporter/ESR: Perry Auerbach. (Conte, Daniela) (Entered: 10/26/1994)
11/28/1994	1165	LETTER dated 11/28/94 from George A. Stamboulidis, AUSA to Hon. Judge Sifton, in response to an affidavit submitted by Barry Levin, Esq. dated 11/23/94, in support of his application to have the Court reconsider its decision of 11/9/94, which denied Mr. Levin's application to appear as counsel for Robert Zambardi in the above-captioned matter. (Greene, Donna) (Entered: 06/18/1996)
12/01/1994	1018	ORDER, signed by Judge Charles P. Sifton, dated: 11/21/94. Defendants are to supplement their brief by 11/21/94; government's sur-reply is due by 12/5/94; additional responses are due by 12/14/94; oral argument set for 12/19/94 at 9:30. So ordered on letter from AUSA Ellen Corcella to Judge Sifton of 11/17/94. (Conte, Daniela) (Entered: 12/01/1994)
12/01/1994	1313	(copy w/attachments) LETTER dated 11/30/94 from Alan Futerfas, Esq., to Judge Sifton, in support of the post trial arguments made on behalf of Anthony Russo, in further support of motion for a new trial and for disclosure of the file relating to the internal investigation of FBI Agent DeVechnio. (Asreen, Wendy) (Entered: 04/09/1997)
12/06/1994	1021	RESPONSE by USA in opposition to defendants' motions for a new trial and/or dismissal of the indictment. Response submitted in the form of a letter from AUSA Valerie Caproni and Ellen Corcella to Judge Sifton dated 12/5/94. Enclosures. (Conte, Daniela) (Entered: 12/06/1994)
12/13/1994	1314	LETTER dated 12/13/94 from Alan Futerfas, Esq., to Judge Sifton, regarding the government's claim that the FBI acted soundly in continuing its

		relationship with Scarpa even though it knew he was committing murder. (Asreen, Wendy) (Entered: 04/09/1997)
02/07/1995	1045	LETTER dated 1/27/95 from AUSA Ellen Corcella to Judge Sifton Re: forwarding affidavits of special agents and AUSAs; and, requesting that portions of the AUSAs' affidavits remain sealed. (Conte, Daniela) (Entered: 02/07/1995)
02/07/1995		ENDORSED ORDER by Judge Charles P. Sifton, dated 1/30/95. Portions of the AUSAs' affidavits submitted shall remain sealed. So ordered on document number 1045. (Conte, Daniela) (Entered: 02/07/1995)
02/07/1995	1046	REDACTED AFFIDAVITS by AUSAs George Stamboulidis, Ellen Corcella and Andrew Weissman, dated 1/27/95, Re: in response to the motions for new trials. (Conte, Daniela) (Entered: 02/07/1995)
02/07/1995	1047	AFFIDAVITS by Special Agents Christopher Favo and Maryann Goldman, dated 1/27/95, Re: in response to the Court's questions. (Conte, Daniela) (Entered: 02/07/1995)
02/23/1995	1050	ORDER, signed by Judge Charles P. Sifton, dated: 2/22/95. Any motion for the disqualification of Alan Futerfas as counsel is referred to Magistrate Gold for a report and recommendation. (Conte, Daniela) (Entered: 02/23/1995)
02/23/1995	1052	LETTER dated 2/21/95 from AUSA Ellen Corcella to Judge Sifton, Re: requesting that the motion for disqualification be referred to Magistrate Gold for a report and recommendation. (Conte, Daniela) (Entered: 02/23/1995)
05/25/1995	1086	LETTER dated 5/25/95 from Alan S. Futerfas to CPS requesting an extension of time to 5.31 to file post trial motions. (Glenn, Marilyn) (Entered: 06/15/1995)
06/15/1995	1086	ENDORSED ORDER permitting atty Alan S. Futerfas until 5.31 to file post trial motions . See endorsement on 2nd page of document #1086. (Chief Judge Charles P. Sifton , dated 5/31/95) (Glenn, Marilyn) (Entered: 06/15/1995)
07/14/1995	1093	ORDER, dfts are invited to submit their positions relating to the government's disclosure as to the attached 302 report, and its impact, if any, on the pending motions by 7/14/95. Any reply by the govt shall be filed by 7/19/95, at which time the matter will be taken on submission. (Signed by Chief Judge Charles P. Sifton , dated: 7/7/95; copies mailed by chambers.) (Ferguson, Frances) (Entered: 07/14/1995)
07/14/1995	1315	LETTER dated 7/12/95 from Martin Goldberg, Esq., to Judge Sifton, in support of motion for a new trial. (Asreen, Wendy) (Entered: 04/09/1997)
07/21/1995	1098	LETTER dated 7/21/95 from Andrew Weissman, AUSA, to all counsel enclosing a copy of an Affirmation in Support of Arrest Warrant as to Salvatore Miciotta, who was a witness in this case, filed before Judge Nickerson. (w/enclosure) (Ferguson, Frances) (Entered: 07/24/1995)
07/25/1995	1101	LETTER dated 7/26/95 from AUSA, George Stamboulidis, to Court Reporter Sheldon Silverman, attaching a transcript of testimony with corrections for

		review against his notes and requesting that the transcript be corrected. (Asreen, Wendy) (Entered: 04/09/1997)
08/16/1995	1109	ORDER as to Alphonse Persico, for parties to show cause in writing by 9/15/95 why the request, if any, for the correction of the trial transcript contained in the govt's annexed letter dated 7/31/95 should not be granted. (Signed by Chief Judge Charles P. Sifton , dated: 8/10/95; copies mailed by chambers) (Ferguson, Frances) (Entered: 08/16/1995)
08/30/1995	1112	LETTER dated 8/30/95 from AUSA Andrew Weissman to Judge Sifton enclosing a transcript, per request of law clerk Matthew D'Amore, reflecting Judge Ross's ruling precluding the Scarpa issue in 93-CR-1231 (ARR). See transcript dated 6/28/95 at 62-87. Also, the transcript has not been received of Judge Ross's pre-trial ruling on the Scarpa issue in 93-CR-1364 (ARR), rendered orally on 8/28/95. It will be provided to the Court as soon as it is made available. (Ferguson, Frances) (Entered: 08/31/1995)
09/06/1995	1114	LETTER dated 8/23/95 from Ellen M. Corcella to Judge Sifton, Re: Enclosing the proceedings before Judge Dearie in 93 cr 1365 referred to in footnote 13 of the 8/9/95 submission. (Piper, Francine) (Entered: 09/06/1995)
10/03/1995	1117	LETTER dated 7/31/95 from AUSA George Stamboulidis to Judge Sifton, as to dft Alphonse Persico, enclosing a corrected page of the transcript of the trial involving a one-letter change on line 16 of page 588; the twelfth word on that line was corrected from "war" to "car," and requesting that the Court authorize the Clerk to replace the corrected page 588 for the page 588 which is currently in the Court file. (Ferguson, Frances) (Entered: 10/03/1995)
10/03/1995	1118	ORDER as to Alphonse Persico: Parties having not responded to the order to show cause in writing by 9/15/95 why the request for the correction of the trial transcript contained in the govt's [1117-1] letter dated 7/31/95 should not be granted, the correction is GRANTED by the Court and the transcript ordered amended. (Signed by Chief Judge Charles P. Sifton , dated: 9/22/95) (Ferguson, Frances) Modified on 12/06/1995 (Entered: 10/03/1995)
11/06/1995	1121	LETTER undated from Teresa Fussel to Judge Sifton inquiring as to when the trial will end. (Ferguson, Frances) (Entered: 11/13/1995)
12/06/1995	1123	(COPY) ORDER dated 9/22/95 as to Alphonse Persico, granting the correction of the trial transcript and the transcript is ordered amended . (Copy of the corrected page 588 of the trial transcript annexed.) (Signed by Chief Judge Charles P. Sifton , dated: 9/22/95) [Also see document #1118] (Ferguson, Frances) (Entered: 12/06/1995)
02/22/1996	1136	LETTER dated 2/21/96 from AUSA to Judge Sifton, in opposition to the defendantFusco's Rule 32 motion to withdraw guilty plea and to notify the Court that Fusco is medically cleared to return to Court for sentencing. (DiTomasso, Mike) (Entered: 02/23/1996)
05/15/1996	1150	TRANSCRIPT filed as to trial held on 4/20/94 before Judge Sifton. AUSA: Andrew Weissmann, Ellen Corcella and Geroge Stamboulidis. Court Reporter: Sheldon Silverman. (Asreen, Wendy) (Entered: 04/09/1997)

05/16/1996		Sealed envelope containing a application & Order. (Drayton, Lorraine) (Entered: 05/20/1996)
05/24/1996	1154	LETTER dated 5/24/96 from AUSA Andrew Weissmann to Judge Weinstein enclosing a copy of Court Exhibit 12, which was made available to defense counsel on 5/24/96. (Greves, Liz) (Entered: 05/28/1996)
06/11/1996	1159	ORDER directing the parties to exchange papers addressed to the issues discussed in Ms. Caproni's letter dated 5/29/96, on or before 6/5/96, and replies on or before 6/6/96, if required. (Signed by Chief Judge Charles P. Sifton , dated: 5/30/96) (DiTomasso, Mike) (Entered: 06/11/1996)
06/12/1996	1368	LETTER dated 6/11/96 from Martin Goldberg, Esq., to Judge Sifton, for Lawrence Fiorenza joining the submissions of co-counsel. (Asreen, Wendy) (Entered: 07/02/1997)
06/18/1996	1164	Affirmation of Valerie Caproni in order bring t the Court's attention certain information that has recently come to her attention. (Greene, Donna) (Entered: 06/18/1996)
07/03/1996	1168	SEALED ORDER and Application. Sealed as per order of Mag. Go. Atty File# 92017. (Dobkin, David) (Entered: 07/03/1996)
11/12/1996	1369	LETTER dated 11/8/96 from Dorothy Fiorenza, Esq., to Judge Sifton, forwarding an addendum to the memo and the "Table of Contents". (Asreen, Wendy) (Entered: 07/02/1997)
12/20/1996	1370	LETTER dated 12/20/96 from Dorothy Fiorenza, Esq., to Judge Sifton, in further support of defendants' Brady claim. (Asreen, Wendy) (Entered: 07/02/1997)
02/19/1997	1207	MEMO and ORDER a new trial is ordered with respect to defts Josph and ANthony Russo and deft Joseph Monteleone on COunts 1,2,5,6,9,12. Except as to the relief, all defts' post-trial motions are, in all respect, denied. (Signed by Chief Judge Charles P. Sifton , dated: 2/18/97) (Dobkin, David) (Entered: 02/25/1997)
03/21/1997	1242	MEMORANDUM AND ORDER that Robert Zambardi's motion to consolidate the indictment in this case with an indictment pending before Judge Raggi- CR-94-1199, and his motion for specific performance of his plea agreement are DENIED. Signed by Chief Judge Charles P. Sifton on 3/17/97. c/m (Asreen, Wendy) (Entered: 04/09/1997)
04/08/1997	1250	LETTER dated 8/17/94 from AUSA Andrew Weissman to Defense counsel, enclosing a copy of the Scarpa "209's" concerning the Colombo Family war. w/enclosure. (rreceived for docketing on 4/8/97). (Dobkin, David) (Entered: 04/08/1997)
04/08/1997	1257	SEALED LETTER dated 12/12/96 As per order of Judge Sifton. Date of Sealing 4/7/97. AUSA Valerie Caproni. (Dobkin, David) (Entered: 04/08/1997)
04/09/1997	1304	NOTICE of Motrion in limine re: other crimes by USA as to Victor J. Orena, Pasquale Amato, Carmine Sessa, Michael Sessa, Lawrence A. Fiorenza,

		Lawrence Mazza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone SR., Alphonse Persico, Joseph Tomasello, Theodore Persico, Richard Fusco, James Delmastro (received for docketing on 4/9/97). (Dobkin, David) (Entered: 04/09/1997)
04/09/1997	1306	LETTER dated 5/29/96 from AUSA Ellen Corcella to Judge Sifton re: enclsoure of Affirmation by Valerie Caproni concerning certain newly discovered information concerning the "Girlfriend 302". w/enclosure. (received for docketing on 4/9/97). (Dobkin, David) (Entered: 04/09/1997)
06/30/1997	1371	LETTER dated 6/25/97 from Salvatore Marinello, Esq., to Judge Sifton, requesting that defendant Joseph Russo be permitted to waive his appearance at the 7/2/97 conference. (Asreen, Wendy) (Entered: 07/02/1997)
06/30/1997	1372	MAIL RETURNED: Order dated 6/13/97 regarding the sentencing of Anthony Russo, mailed to Salvatore Marinello at 300 Old Country Road, Mineola. Returned with the notation, "forwarding order expired". (remained 7/2/97 to address of 55 Mineola Blvd.; docket sheet updated) (Asreen, Wendy) (Entered: 07/02/1997)
06/30/1997	1373	LETTER dated 6/26/97 from Alan Futerfas, Eseq., to Judge Sifton, requesting that Anthony Russo be permittted to waive his appearance at the 7/2/97 conference. (Asreen, Wendy) (Entered: 07/02/1997)
07/02/1997	1375	LETTER dated 1/17/94 from Martin Goldberg, Esq., to Judge Sifton, enclosing a copy of the decision in United States v Abcasis which reaffirmed that the Constitution guarantees criminal defendants an opportunity to present a complete defense. (Asreen, Wendy) (Entered: 07/02/1997)
07/02/1997	1376	LETTER dated 4/29/94 from Martin Goldberg, Esq., to Judge Sifton, in support of the RUle 29 motions before the Court. (Asreen, Wendy) (Entered: 07/02/1997)
07/02/1997	1377	LETTER dated 5/25/94 from Martin Goldberg, Esq., to Judge Sifton, stating that the type of evidence that existed as to Pontillo does not exist as to defendant Fiorenza. (Asreen, Wendy) (Entered: 07/02/1997)
07/02/1997	1378	LETTER dated 8/11/94 from Martin Goldberg, Esq., to Judge Sifton, joining in all motions submitted by co-counsel and to supplement his letter of 6/29/94. (faxed copy w/attachments annexed) (Asreen, Wendy) Modified on 07/02/1997 (Entered: 07/02/1997)
07/02/1997	1379	LETTER dated 7/12/95 from Martin Goldberg, Esq., to Judge Sifton, in support of request for a new trial. (Asreen, Wendy) (Entered: 07/02/1997)
09/11/1997		Magistrate Judge Pollak has been selected by random selection to handle any matters that may be referred in this case. (Vaughn, Terry) (Entered: 09/12/1997)
09/29/1997	1416	SEALED LETTER dated 1/27/95 from Alan Futerfas to the Court (Dobkin, David) (Entered: 09/29/1997)
11/13/1997	1422	

		SEALED DOCUMENT. 2 letters dated 10/31/97 & 11/10/97; affidavit dated 10/29/97 placed in vault. Sealed per order of Judge Sifton. (Greene, Donna) (Entered: 11/21/1997)
11/14/1997	1418	ORDER that the defense counsel's motion to be relieved as counsel for deft. Lawrence Fiorenza is denied. Counsel is directed to comply with his client's requests as set forth in Fiorenza's affidavit of 10/29/97, Which is ordered sealed except as to defense counsel. (Signed by Chief Judge Charles P. Sifton , dated: 11/5/97). c/m (Greene, Donna) (Entered: 11/14/1997)
11/18/1997	1424	COPY OF LETTER dated 11/18/97 from Ellen M. Corcella to Judge Sifton, responding to the deft. Richard Fusco's motion requesting that this Court reject the guilty plea he entered pursuant to Rule 11 (e) (1) (C) of the Federal Rules of Criminal Procedure which provided for a 14-year term of incarceration. (Greene, Donna) (Entered: 12/05/1997)
11/21/1997	1421	LETTER dated 11/7/97 from Ellen M. Corcella to Judge Sifton, submitted pursuant to the Court's request that Your Honor be notified when the deft. Richard Fusco is scheduled to return to the Eastern District for Sentence. Mr. Fusco is currently scheduled for sentence before Your Honor on 11/21/97 at noon. (Greene, Donna) (Entered: 11/21/1997)
12/16/1997	1426	COPY OF LETTER dated 12/5/97 from Ellen M. Corcella to Judge Sifton, in connection with the deft. Richard Fusco's sentencing, which is scheduled for 12/11/97 at 12:00 noon. (Greene, Donna) (Entered: 12/16/1997)
12/16/1997	1428	MAIL RETURNED (Moved Left no Address unable to forward). Order #1418 returned on 12/11/97 (Gonzalez, Mary) (Entered: 12/16/1997)
01/05/1998	1440	MAIL RETURNED. Judgment in a Criminal Case mailed to Marvin Segal on 12/26/97 returned on 1/5/98. " Segal & Hundley moved left no address - unable to forward". (Greene, Donna) (Entered: 01/08/1998)
01/06/1998	1439	SEALED DOCUMENT containing a order and affidavit, to be placed in vault as per order of Judge Sifton dated 12/30/97. (Jean (Entered: 01/06/1998)
02/05/1998	1447	INTER-OFFICE MEMO from Mag. Judge Pollak, to Terry Vaughn, Operations Mgr., dated Feb. 2, 1998, recusing herself from this case and requesting that another mag. judge be assigned by random selection. (Vaughn, Terry) (Entered: 02/05/1998)
02/09/1998		Magistrate Judge Caden has been selected by random selection to handle any matters that may be referred in this case. (Vaughn, Terry) (Entered: 02/09/1998)
07/24/1998	1461	COPY OF LETTER dated 7/24/98 from Andrew Weissmann, AUSA to Judge Sifton, requesting the unsealing of the government's 6/29/98, motion pursuant to Section 5K1.1 of the Sentencing. (Greene, Donna) (Entered: 07/31/1998)
07/27/1998	1460	LETTER dated 7/17/98 from Matthew J. Brief, Esq. to Judge Sifton, requesting that both their 6/19/98 5(k)1.1 motion/letter be sealed. (Greene, Donna) (Entered: 07/27/1998)
07/31/1998		

		ENDORSED ORDER on doc. #1461. Application granting the unsealing of government's 6/29/98 motion pursuant to Section 5K1.1 of the Sentencing Guidelines. (Chief Judge Charles P. Sifton , dated 7/29/98). (Greene, Donna) (Entered: 07/31/1998)
08/03/1998	1462	MAIL RETURNED. Judgment dtd 7/22/98 mail to J. Bruce Maffeo returned on 8/3/98. "Forwarding Order Expired". (Greene, Donna) (Entered: 08/03/1998)
08/18/1998	1472	MAIL RETURNED. Endosed Letter dated 8/7/98 from Matthew J. Brief to Judge Sifton returned on 8/18/98. "Return to Sender moved fwdg order expired". (Greene, Donna) (Entered: 08/18/1998)
11/02/1998	1484	LETTER dated 10/29/98 from Alan S. Futerfas to Judge Sifton, Requesting an extension of time from 10/19/98 to 11/2/98 for submission of objections to the Presentence Report for Anthony Russo. (Piper, Francine) (Entered: 11/02/1998)
12/04/1998	1487	COPY OF LETTER dated 12/2/98 from Alan S. Futerfas to Judge Sifton, requesting that the conference previously scheduled for 12/2/98 at 4:30 be continued to a date and time agreed upon by all parties. (Greene, Donna) (Entered: 12/07/1998)
02/04/1999	1498	LETTER dated 12/2/98 from Alan S. Futerfas to Judge Sifton, requesting that the conference set for today at 4:30 be continued to a date and time agreed upon by all parties. (Reddy, Lisa) (Entered: 02/04/1999)
02/17/1999	1504	LETTER dated 2/11/99 from Stephen D. Kelly, AUSA to Judge Sifton, requesting additional time to respond to the defts. Rule 33 motion filed 1/11/99. Counsels propose that the defts. reply brief, if any, be filed by 3/9/99 and that the sentencing be rescheduled on 3/12/99 at 12:00. (Greene, Donna) (Entered: 02/17/1999)
02/17/1999	1505	LETTER dated 1/26/99 from Alan S. Futerfas to Judge Sifton, addressing the responding government criticism of their conduct throughout the trial. (Greene, Donna) (Entered: 02/17/1999)
03/02/1999	1507	ORDER, granting the government's request to extend time to respond to defendants' Rule 33 motion until 3/1/99 . (Signed by Chief Judge Charles P. Sifton, dated 3/1/99). C/M. See letter dated 2/26/99 from AUSA Stephen D. Kelly to Judge Sifton. (Reddy, Lisa) (Entered: 03/02/1999)
03/02/1999	1508	MEMORANDUM by USA in opposition to defendants' Rule 33 motion. (Reddy, Lisa) (Entered: 03/02/1999)
03/24/1999	1541	AFFIDAVIT by Frank Handelman in support of request for payment. (Greene, Donna) (Entered: 04/09/1999)
04/15/1999	1548	MEMORANDUM and ORDER that the defts. letter application for reconsideration of the Court's March 18 memorandum and order is denied. The transcript of the detention hearing of Mazza does not provide a basis for reconsideration. (Signed by Chief Judge Charles P. Sifton , dated: 4/14/99). c/m (Greene, Donna) (Entered: 04/15/1999)

04/19/1999	1550	LETTER dated 3/18/99 from Alan S. Futterfas to Judge Sifton, submitting to place before Your Honor a document that is specifically relevant to whether Lawrence Mazza perjured himself at trial in denying that he had been a fugitive and in creating an elaborate story as to why he had left the state and dyed his hair. (Greene, Donna) (Entered: 04/19/1999)
04/22/1999		Certified copy of docket sheet sent to USCA. (Gonzalez, Mary) (Entered: 04/22/1999)
04/22/1999	1553	MAIL RETURNED. Memorandum and Order dated 4/14/99 mailed to Marvin Segal, Esq. returned on 4/22/99. "No longer at this address." (Greene, Donna) (Entered: 04/26/1999)
04/29/1999	1555	USCA Order filed on 4/27/99 The court noting that a Notice of Appeal filed in 99-1171 is being consolidated with 99-1168. The Court further noting that a new scheduling order will be issued with regards to 99-1168(L) and 99-1171 are hereby consolidated. Judge notified. Ackn mailed. USCA #99-1168 and 99-1171. (Gonzalez, Mary) (Entered: 04/29/1999)
06/30/1999	1560	LETTER dated 6/27/99 from Samuel Gravina, to M. Cecelia Volk, requesting copies of the judgments entered for certain defendants. (Murphy, Margaret) (Entered: 07/14/1999)
12/29/1999	1576	LETTER dated 12/20/99 from David Schoen to Mag. Caden, advising the court that counsel will advise the AUSA of relevant issues in the case. (Piper, Francine) (Entered: 12/29/1999)
07/10/2000		CASE reassigned to Judge Jack B. Weinstein from Judge Charles P. Sifton. (Chow, Alice) (Entered: 07/21/2000)
06/21/2001	1591	LETTER dated 10/17/93 from Zachary W. Carter, AUSA to Hon. Charles P. Sifton. Regarding various motions by defendants including thier recent requests for bills of particulars. (Chee, Alvin) (Entered: 06/21/2001)
06/22/2001	1599	LETTER dated 02/02/94 from Michael S. Washor on behalf of all defense counsel, to Hon. Charles P. Sifton. Regarding the outstanding and undecided issues that counsel request be adjudicated before openings to the jury. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1601	By USA as to Alphonse Persico. Regarding the government's requests to charge defendant. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1602	The government's memorandum in support of its motion for an anonymous and partially sequestered jury. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1606	LETTER dated 01/20/94 from Barry I. Slotnick to Hon. Charles P. Sifton. Regarding list of items of evidence to be marked as defense exhibits. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1607	LETTER dated 01/26/01 from Mark M. Baker to Hon. Charles P. Sifton. Regarding several outstanding matters before the Court. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1608	Transcript of motion before the Hon. C.P. Sifton. November 2, 1993. (Chee, Alvin) (Entered: 06/22/2001)

06/22/2001	1610	Bill of Particulars by USA. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1613	Transcript of status conference before Hon. C.P. Sifton. August 5, 1993. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1614	LETTER dated 06/30/94 from George Stamboulidis, AUSA, to Hon. C.P. Sifton. Letter to move "in limine" to preclude Persico from mentioning certain subjects during course of his opening statements and the balance of trial. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1615	LETTER dated 3/22/94 from Andrew Weissmann, AUSA, to defense counsels . Regarding government exhibits. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1616	LETTER dated 02/18/94 from George Stamboulidis, AUSA, to Hon. C.P. Sifton. Regarding FBI 302's (government exhibits). (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1617	LETTER dated 02/25/94 from Ellen M. Corcella, AUSA, to defense counsels. Regarding materials that are available for review. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1618	LETTER dated 02/21/94 from George Stamboulidis, AUSA, to Hon. C.P. Sifton. Regarding request by Court on the issue of the opening statement of Samuel Dawson, Esq. in trial of US v. Salerno. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1619	LETTER dated 03/02/94 from Andrew Weissmann, AUSA, to Hon. C.P. Sifton. Regarding areas to examine on re-direct examination. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1620	LETTER dated 02/25/94 from Andrew Weissman, AUSA, to Hon. C.P. Sifton. Regarding position of government in connection with defendants' objections to admission of coconspirators statements under Rule 801 (d) (2) (E). (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1623	LETTER dated 02/18/94 from Ellen M. Corcella, AUSA, to Hon. C.P. Sifton. Regarding move in limine to limit certain cross-examination of government witness. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1626	LETTER dated 01/07/94 from Mark M. Baker, counsel for defendant, to Hon. C.P. Sifton. Regarding list of tape recordings and transcripts. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1627	LETTER dated 01/07/94 from Michael S. Washor to Hon. C.P. Sifton. Regarding request to extend the time to file defense objections. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1629	LETTER dated 01/12/94 from Barry I. Slotnick, counsel for defendant, to Hon. C.P. Sifton. Regarding marked transcripts. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1630	

		LETTER dated 01/26/94 from Barry I. Slotnick, attorney to defendant, to Hon. C.P. Sifton. Regarding confiscated tape player of Alphonse Persico. of (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1634	LETTER dated 03/03/94 from Richard E. Mischel, interim counsel to defendant, to Hon. C.P. Sifton. Regarding summary of Mr. Persico's efforts to secure substitute counsel. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1635	LETTER dated 02/08/94 from Barry I. Slotnick, counsel for defendant, to Hon. C.P. Sifton. Regarding move of A. Persico to FCI Otisville from MCC. Request a move back to MCC. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1636	LETTER dated 01/14/94 from Mark M. Baker to Hon. C.P. Sifton. Regarding request for closed courtroom. (Chee, Alvin) Modified on 06/22/2001 (Entered: 06/22/2001)
06/22/2001	1637	LETTER dated 02/07/94 from Barry I. Slotnick, counsel for defendant, to Hon. C.P. Sifton. Regarding request for copies of various exhibits. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1638	LETTER dated 02/07/94 from Barry I. Slotnick, attorney for defendant, to Hon. C.P. Sifton. Regarding request for order granting A. Persico permission to observe the trial of his codefendants. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1639	LETTER dated 02/23/94 from Mark M. Baker, counsel for defendant, to Hon. C.P. Sifton. Regarding request of A. Persico to be maintained in custody at MCC, as well as reinstating Barry Slotnick, Esq. as trial counsel. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1640	LETTER dated 07/21/94 from Kelly Guthy, attorney to defendant, to Hon. C.P. Sifton. Regarding the instant application to preclude the government from questioning or eliciting testimony from governmental informant and witness, L. Mazza. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1641	LETTER dated 06/21/94 from Barry Levin, attorney for defendant, to Hon. C.P. Sifton. Regarding defense's exhibit list for trial. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1642	LETTER dated 06/15/01 from Barry Levin, counsel for defendant, to Hon. C.P. Sifton. Regarding letter from Barry Slotnick, Esq. setting forth which tapes the defense would like marked as defense exhibits. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1644	LETTER dated 06/30/94 from Kelly Guthy, attorney for defendant, to Hon. C.P. Sifton. Regarding opposition to government's recent motion "in limine", where they seek to introduce evidence of two assaults. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1645	LETTER dated 07/05/94 from Ellen M. Corcella, AUSA, to Hon. C.P. Sifton. Regarding support of the admissibility of conversations. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1646	LETTER dated 06/21/94 from Barry Levin, counsel to defendant, to Hon. C.P. Sifton. Regarding government's opposition to the defendant's motion in

		limine to admit the affidavit of G. Scarpa. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1647	LETTER dated 06/14/94 from Barry Levin, counsel for defendant, to Hon. C.P. Sifton. Regarding request for a two-week adjournment of the commencement of the Persico trial. (Chee, Alvin) Modified on 06/22/2001 (Entered: 06/22/2001)
06/22/2001	1648	LETTER dated 06/26/94 from Ellen M. Corcella, AUSA, to Hon. C.P. Sifton. Regarding Persico's motion "in limine" to preclude the introduction of his prior conviction under Rule 609 of the Federal Rules of Evidence. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1649	LETTER dated 06/26/94 from Ellen M. Corcella, AUSA, to Hon. C.P. Sifton. Regarding response to the defendant's motion "in limine" to preclude the use of various terms. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1650	LETTER dated 07/01/94 from Kelly Guthy, counsel for defendant, to Hon. C.P. Sifton. Regarding judge's directive. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1651	LETTER dated 06/29/94 from Ellen M. Corcella, AUSA, to Hon. C.P. Sifton. Regarding Persico's motion to dismiss racketeering act one. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1652	LETTER dated 07/08/94 from Barry Levin, counsel for defendant, to Hon. C.P. Sifton. Regarding the sealed confidential informant file pertaining to G. Scarpa. Request judge unseal file. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1653	LETTER dated 06/27/94 from Ellen M. Corcella, AUSA, to Hon. C.P. Sifton. Regarding move "in limine" to introduce certain evidence during trial. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1655	Motion in limine pursuant to federal rule of evidence 1006. Filed by Barry Levin, counsel for defendant. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1656	Motion in limine pursuant to federal rule of evidence 804. (Chee, Alvin) Modified on 06/22/2001 (Entered: 06/22/2001)
06/22/2001	1657	Subpoena in a criminal case. To U.S. Department of Probation. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1658	LETTER dated 07/25/94 from Kelly Guthy, attorney for defendant, to Hon. C.P. Sifton. Regarding support of the defendant's within application pursuant to Federal Rules of Criminal Procedure 29 for a judgment of acquittal. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1659	Affidavit in opposition to motion to quash trial subpoena for J. Bruce Maffeo, Esq. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1660	LETTER dated 07/20/94 from J. Bruce Maffeo, Esq., to Hon. C.P. Sifton. Regarding response to affidavit of Kelly Guthy, Esq., opposing the motion to quash a subpoena. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1661	

		Order to show cause before the Hon. C.P. Sifton as to why an order should not be entered quashing the subpoena served upon J. Bruce Maffeo, Esq. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1662	Memorandum of law in support of the compelled testimony of J. Bruce Maffeo, Esq. By Barry Levin, attorney for defendant. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1663	LETTER dated 01/11/94 from Mark M. Baker, counsel for defendant, to Hon. C.P. Sifton. Regarding alleged prior bad acts which the government intends to introduce at trial pursuant to Fed.R.Evid. 404(b). (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1664	LETTER dated 07/13/94 from Andrew Weismann, AUSA, to Hon. C.P. Sifton. Regarding various potential conflicts that Alan Futerfas, Esq., has in connection with his representation of the defendant. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1665	LETTER dated 07/11/94 from Barry Levin, counsel for defendant, to Hon. C.P. Sifton. Regarding defendant's instant application to strike certain statements made by government witness. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1666	LETTER dated 07/21/94 from Kelly Guthy, counsel for defendant, to Hon. C.P. Sifton. Regarding instant application to preclude the government from questioning or eliciting testimony from governmental informant. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1667	LETTER dated 07/15/94 from Michael S. Washor, counsel for defendant, to Hon. C.P. Sifton. Regarding serveral important issues pertaining to the case. (Chee, Alvin) Modified on 06/22/2001 (Entered: 06/22/2001)
06/22/2001	1668	LETTER dated 07/20/94 from George Stamboulidis, AUSA, to Hon. C.P. Sifton. Regarding position on the legal representation of Carmine Persico. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1669	Defendant's proposed voir dire questions. Filed by Barry Levin. To Hon. C.P. Sifton and George Stamboulidis, Esq. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1670	Copy of the government's proposed jury questionnaire. To Hon. C.P. Sifton. From George A. Stamboulidis, AUSA. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1671	LETTER dated 06/16/94 from Ellen M. Corcella, AUSA, to Barry Levin, counsel for defendant. Regarding follow-up on the discovery issues discussed at the pretrial conferences. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1672	LETTER dated 06/06/94 from Barry Levin, counsel to defendant, to George Stamboulidis, AUSA. Formal notice to US government of the defendant's intention to interview several Bureau of Prison employees. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1673	LETTER dated 06/06/94 from Barry Levin, attorney for defendant, to George Stamboulidis, AUSA. Regarding request for discovery. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1674	

		LETTER dated 06/10/94 from Barry Levin, counsel to defendant, to Ellen Corcella, AUSA. Regarding request for the Piazza homicide material. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1675	LETTER dated 06/13/01 from Ellen M. Corcella, AUSA, to Barry Levin, counsel for defendant. Regarding letter of discovery sent by Levin. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1676	LETTER dated 05/02/94 from Barry Levin, counsel to defendant, to Hon. C.P. Sifton. Regarding motions and any unresolved discovery issues. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1677	LETTER dated 06/13/94 from Ellen M. Corcella, AUSA, to Hon. C.P. Sifton. Regarding discovery sent by Barry Levin. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1678	LETTER dated 06/01/94 from Barry Levin, counsel for defendant, to Ellen Corcella, AUSA. Regarding FBI Debriefings (302's) for Lawrence Mazza and John Pate. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1679	LETTER dated 06/07/01 from Barry Levin, counsel for defendant, to Hon. C.P. Sifton. Regarding the government's lack of good faith in complying with discovery obligations. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1680	LETTER dated 06/29/94 from Ellen M. Corcella, AUSA, to Barry Levin, counsel for defendant. Regarding certain discovery issues. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1681	LETTER dated 07/06/94 from Ellen M. Corcella, AUSA, to Barry Levin, counsel for defendant. Regarding FBI laboratory and latent print records. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1682	LETTER dated 07/01/94 from George Stamboulidis, AUSA, to Barry Levin, counsel for defendant. Regarding copy of Government Exhibit 3500-39 (T). (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1683	Defendant A. Persico's request to charge. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1687	LETTER dated 02/03/94 from George Stamboulidis, AUSA, to Hon. C.P. Sifton. Regarding particulars with respect to companies and locations of proposed jury questionnaire. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1688	LETTER dated 01/21/94 from Salvatore Marinello, AUSA, to Hon. C.P. Sifton. Regarding juror questionnaire. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1689	LETTER dated 01/31/94 from Andrew Weissman, AUSA, to Hon. C.P. Sifton. Regarding various issues that arose at the status conference on January 28, 1994. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1690	LETTER dated 01/23/94 from Barry Slotnick, defendant for counsel, to Hon. C.P. Sifton. Defendant requests the Court to include following questions in its customary interrogation of prospective jurors. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1691	

		LETTER dated 01/23/94 from George Stamboulidis, AUSA, to Hon. Charles P. Sifton. Regarding government's proposed jury questionnaire. (Chee, Alvin) (Entered: 06/22/2001)
06/22/2001	1704	Transcript of trial before the Hon. C.P.S. on April 18, 1994. (Chee, Alvin) (Entered: 06/22/2001)
08/21/2001	1708	LETTER dated 8/14/01 from Michelle Roker with the Court of Appeals to EDNY Appeals Clerk, stating that the Circuit inadvertently issued the mandate and is now recalling it. [Mandate sent to the Circuit on 8/20/01 by mcg.] (Vaughn, Terry) (Entered: 08/21/2001)
02/01/2002	1714	LETTER dated 10/18/93 from Andrew Weissmann to Judge Sifton we write with respect to two issues that arose in connection with Alphonse Persico's detention hearing. (Jackson, Ramona) (Entered: 02/01/2002)
02/05/2002	1715	SEALED DOCUMENT as to Alphonse Persico (Jackson, Ramona) (Entered: 02/05/2002)
06/24/2002		CASE reassigned to Judge David G. Trager from Judge Jack B. Weinstein. Parties notified. (Bowens, Priscilla) (Entered: 06/25/2002)
07/10/2002	1720	MAIL RETURNED. Notification of Case Reassignmen mailed to Stephen Kelly, Esq. returned on 7/10/02. "Insufficient address". (Greene, Donna) (Entered: 07/12/2002)
08/22/2007	1750	TRANSCRIPT of Hearing Proceedings as to Victor J. Orena, Pasquale Amato, Lawrence Mazza, Carmine Sessa, Michael Sessa, Lawrence A. Fiorenza, Joseph Russo, Anthony Russo, Robert Zambardi, Joseph Monteleone, SR, Alphonse Persico, Joseph Tomasello, Theodore Persico, Richard Fusco, James Delmastro held on February 28th 1997 before Judge Weinstein. Court Reporter: Diana Pereira. (Attachments: # 1 119-259# 2 word index) (Hong, Loan) (Entered: 08/22/2007)
03/07/2008		NOTICE Case ordered from Lee's Summit National Archives for Dorla Henriquez on March 7, 2008. (Hugh, Lewis) (Entered: 03/07/2008)
03/13/2008		NOTICE Case received and person called on March 13, 2008. (Hugh, Lewis) (Entered: 03/13/2008)
04/16/2008		NOTICE Case sent back to Lee's Summit National Archives on April 15, 2008. (Hugh, Lewis) (Entered: 04/16/2008)

PACER Service Center			
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Billable Pages:	30	Cost:	3.00
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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA,

5 Plaintiff,

Docket No.:

10 CR 147

6 versus

7 FRANCIS GUERRA,

U.S. Courthouse

225 Cadman Plaza East

Brooklyn, NY 11201

8 Defendant.

September 23, 2013

2:30 p.m.

9 Transcript of Criminal Cause for Sentencing

10 Before: HONORABLE SANDRA L. TOWNES,

District Court Judge

11
12 APPEARANCES

13 For the Government:

LORETTA E. LYNCH, ESQ.

United States Attorney

Eastern District of New York

271 Cadman Plaza East

Brooklyn, New York 11201

14 BY: NICOLE M. ARGENTIERI, ESQ.,

15 ALLON LITSHITZ, ESQ.,

Assistant U.S. Attorneys

16
17 For the Defendant:

LAW OFFICE OF GERALD J.

18 McMAHON, ESQ.

26 Broadway, 18th Floor

19 New York, New York 10004

20 BY: GERALD J. McMAHON, ESQ.

MATHEW MARI, ESQ.

21 Court Reporter:

MICHELE NARDONE, CSR, RPR, CRR

22 Official Court Reporter

Phone: 718-613-2601

23 Fax: 718-613-2631

Email: Mishrpr@aol.com

24 Proceedings recorded by mechanical stenography. Transcript
25 produced by computer-aided transcription.

MICHELE NARDONE, CSR, RPR, CRR - Official Court Reporter

1 either Russo or the defendant were arrested.

2 The testimony of the victim's brother about the
3 victim's relationship with Mrs. Persico before his death. This
4 and other evidence was sufficient to prove the murder
5 conspiracy and the defendant's part in it by a preponderance of
6 the evidence.

7 Also, the murder of Joseph Scopo, the testimony of
8 Mr. Russo showed by a preponderance of the evidence that the
9 defendant as well as he, Mr. Russo, helped plan it; that they
10 got guns that the defendant came bringing in a gym bag; and
11 that the defendant went to prison to discuss murder plans with
12 Ted Persico; and that the group of them started to look for
13 Mr. Scopo. He, the defendant, along with Russo and others, met
14 with Theodore Persico, Jr. at his grandmother's funeral and
15 received the okay or order to commit this murder.

16 Now, I find that it was proven, and the witness
17 Mr. Russo testified that the defendant drove the crash car,
18 which was parked on a street behind the vehicle driven by
19 Russo, carrying the shooters, Jada Pappa, and another person.
20 Pappa got out of the vehicle and killed Scopo. When other
21 people returned fire Russo drove away with that third person
22 and left Pappa on the street. Russo next saw Pappa minutes
23 later in the defendant's vehicle.

24 Russo testified that the defendant was driving his
25 vehicle, a blue Acura, registered in Mr. Guerra's sister's



GOVERNMENT
EXHIBIT
17(c)
10 CR 147 (DLI)

CRIME SCENE UNIT	10/21/93
Run # 93/2943	Photo # 19
Pct 106	Investigator DEL. DEGUILLIO
Initials	<i>JD</i>

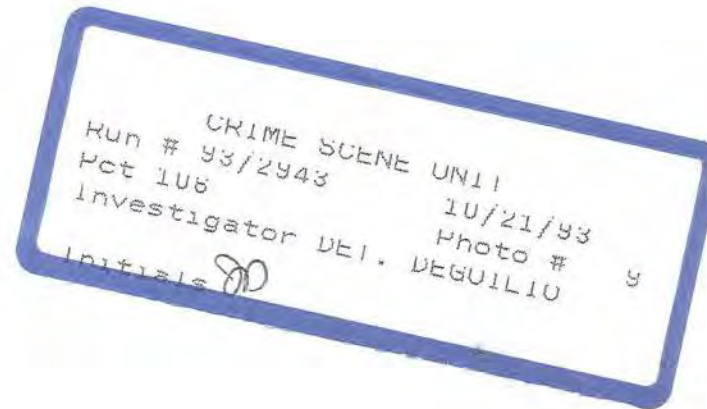


GOVERNMENT
EXHIBIT
18(a)
10 CR 147 (DLI)

CRIME SCENE UNIT	
Run # 93/2943	10/21/93
Pct 106	Photo # 5
Investigator DET. DEGUILLIO	
Initials <i>JD</i>	

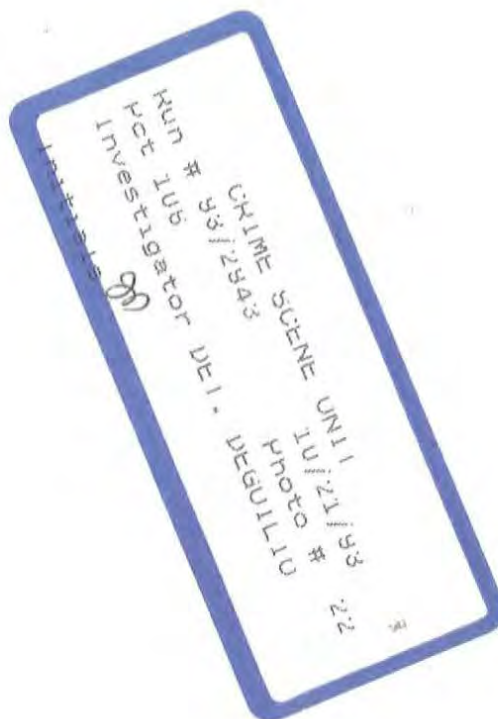


GOVERNMENT
EXHIBIT
18(c)
10 CR 147 (DLI)





GOVERNMENT
EXHIBIT
19(a)
10 CR 147 (DLI)





GOVERNMENT
EXHIBIT
19(b)
10 CR 147 (DLI)

CRIME SCENE UNIT
Run # 93/2943 10/21/93
Pct 106 Photo # 27
Investigator DET. DEGUILLIO
Initials *JD*



GOVERNMENT
EXHIBIT
20(c)
10 CR 147 (DLI)

CRIME SCENE UNIT
Run # 93/2943A 10/21/93
Pct 106 Photo # 6
Investigator DET. YOUNG #2387 (1)
Initials *gy*



GOVERNMENT
EXHIBIT
20(d)
10 CR 147 (DLI)

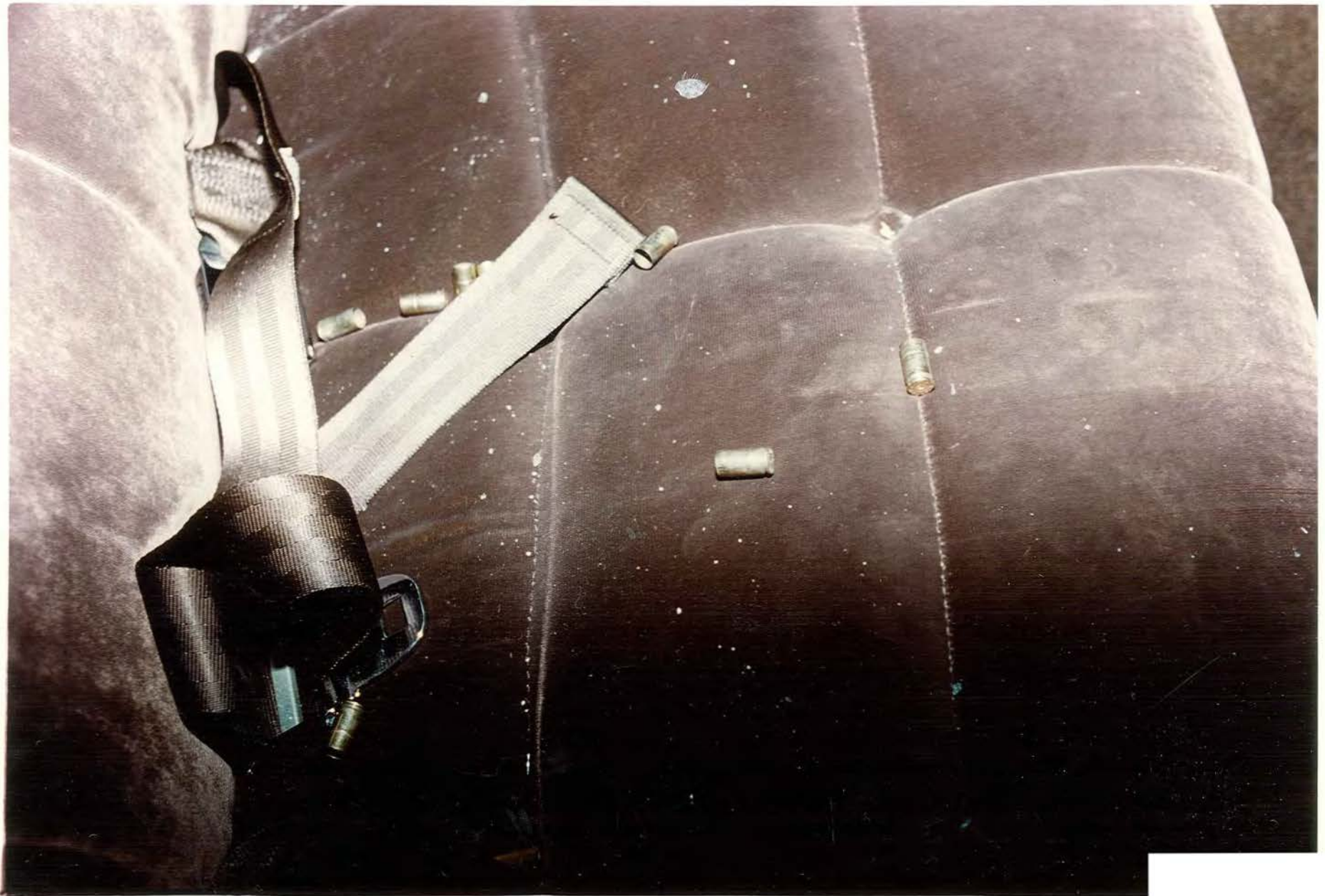
CRIME SCENE UNIT
Run # 93/2943A 10/21/93
Pct 106 Photo # 8
Investigator DET. YOUNG #2387 (2)
Initials *94*

CRIME SCENE UNIT
Run # 93/2943A 10/21/93
Pct 106 Photo # 8
Investigator DET. YOUNG #2387
Initials *94 11/4/93*



GOVERNMENT
EXHIBIT
20(f)
10 CR 147 (DLI)

CRIME SCENE UNIT
Run # 93/2943A 10/21/93
Pct 106 Photo # 10
Investigator DET. YOUNG #2387 (1)
Initials *gy*



GOVERNMENT
EXHIBIT
20(g)
10 CR 147 (DLI)

CRIME SCENE UNIT
Run # 93/2943A 10/21/93
Pct 106 Photo # 12
Investigator DET. YOUNG #2387 (2)
Initials *94*

CRIME SCENE UNIT
Run # 93/2943A 10/21/93
Pct 106 Photo # 35
Investigator DET. YOUNG #2387

Initials *94 4/2/99*





GOVERNMENT
EXHIBIT
21(i)
10 CR 147 (DLI)

CRIME SCENE UNIT
Run # 93/2943A 10/21/93
Pct 106 Photo # 23
Investigator DET. YOUNG #2387 (1)

Initials *EY*

CRIME SCENE UNIT
Run # 93/2943A 10/21/93
Pct 106 Photo # 23
Investigator DET. YOUNG #2387

Initials *EY 4/8/92*



GOVERNMENT
EXHIBIT
208(a)
10 CR 147 (DLI)

281-214955

6192

31

KW



SO-2 AGENT: K. WEVODAU DATE:102694
CASE AGENT: FERRANDINO SQUAD: C-31
FILE #: 87G-NY-228482 ROLL#:4183
PHOTOGRAPHS ARE IN SEQUENTIAL ORDER

15B-NK-85650-1A4

GOVERNMENT
EXHIBIT

212(a)
10 CR 147 (DLI)



SO-2 AGENT: K. WEVODAU DATE:102694
CASE AGENT: FERRANDINO SQUAD: C-31
FILE #: 87G-NY-228482 ROLL#:4183
PHOTOGRAPHS ARE IN SEQUENTIAL ORDER

15B-NK-85650-1A4

GOVERNMENT
EXHIBIT

212(b)
10 CR 147 (DLI)



SO-2 AGENT: K. WEVODAU DATE:102694
CASE AGENT: FERRANDINO SQUAD: C-31
FILE #: 87G-NY-228482 ROLL#:4183
PHOTOGRAPHS ARE IN SEQUENTIAL ORDER

15B-NK-85650-1A4

GOVERNMENT
EXHIBIT
212(c)
10 CR 147 (DLI)

VITAL RECORDS
DEPARTMENT OF HEALTH
DATE OF DEATH

CERTIFICATE OF DEATH

1563 93-046759

Certificate No.

AUG 18 11 21 PM '93

1. NAME OF
DECEASED

Eleanor

Avena

(Type or Print)

(First Name)

(Middle Name)

(Last Name)

MEDICAL CERTIFICATE OF DEATH (To be filled in by the Physician)

2. PLACE OF DEATH	NEW YORK CITY 2a. BOROUGH Brooklyn	2b. Name of hospital or other facility if not facility, street address Lutheran Medical Center	2c. If in Hospital or Other Facility (Check) 1 <input type="checkbox"/> DOA 3 <input type="checkbox"/> Outpatient 2 <input type="checkbox"/> Emerg. 4 <input type="checkbox"/> Inpatient	2d. If inpatient, date of current admission Month 6 Day 24 Year 93		
3a. Date and Hour (Month) of Death	August	(Day) 17	(Year) 1993	3b. HOUR 5:45	4. SEX F	5. APPROXIMATE AGE 78
6. I HEREBY CERTIFY THAT: (Check One) <input type="checkbox"/> I attended the deceased <input checked="" type="checkbox"/> A staff physician of this institution attended the deceased <input type="checkbox"/> Dr. _____ attended the deceased from June 24 19 93 to August 17 19 93 and last saw her alive at 1:00 AM on August 17 19 93. I further certify that traumatic injury or poisoning DID NOT play any part in causing death, and that death did not occur in any unusual manner and was due entirely to NATURAL CAUSES. Witness my hand this 17 day of August 19 93 Signature _____ DO. Name of Physician Lawrence Farago Address Lutheran Medical Center M.D.						

PERSONAL PARTICULARS (To be filled in by Funeral Director)

7. Usual Residence a. State N.Y.	7b. County KINGS	7c. City, Town, or Location NEW YORK	7d. Street & House No. [REDACTED]	Zip [REDACTED]	Apt. No. [REDACTED]	7e. Inside City Limits of 7c Yes <input type="checkbox"/> No <input type="checkbox"/>
8. Served in U.S. Armed Forces No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Specify years From To		9. Marital Status (Check One) 1 <input type="checkbox"/> Never Married 2 <input checked="" type="checkbox"/> Widowed 3 <input type="checkbox"/> Married or separated 4 <input type="checkbox"/> Divorced		10. Name of Surviving Spouse (If wife, give maiden name)		
11. Date of birth of Decedent (Month) (Day) (Year) [REDACTED]		12. Age at last birthday 78		13. Social Security No. [REDACTED]		
14a. Usual Occupation (Kind of work done during most of working lifetime, do not enter retired) FACTORY WORKER				14b. Kind of Business KING RESEARCH		
15. Birthplace (City & State or Foreign Country) BROOKLYN		16. Education (Check only one) 0-11 <input checked="" type="checkbox"/> 12 <input type="checkbox"/> 13-15 <input type="checkbox"/> 16 <input type="checkbox"/> 17+ <input type="checkbox"/>		17. Other name(s) by which decedent was known		
18. NAME OF FATHER OF DECEDENT CARL JOHNSON				19. MAIDEN NAME OF MOTHER OF DECEDENT JEANETTE FOX		
20a. NAME OF INFORMANT PATTY AVENA		20b. RELATIONSHIP TO DECEDENT DAUGHTER		20c. ADDRESS (City) (State) (Zip) [REDACTED]		
21a. NAME OF CEMETERY OR CREMATORY SILVERMOUNT CEMETERY		21b. LOCATION (City, Town, State and Country) STATEN ISLAND N.Y.		21c. DATE OF BURIAL OR CREMATION AUGUST 20 1993		
22a. FUNERAL DIRECTOR BLAIR MAZZARELLA FUNERAL HOME				22b. ADDRESS 723 CONEY ISLAND AVE BKLYN N.Y.		

VITAL RECORDS

DEPARTMENT OF HEALTH

THE CITY OF NEW YORK

VR 15 (1/00)

This is to certify that the foregoing is a true copy of a record on file in the Department of Health and Mental Hygiene. The Department of Health and Mental Hygiene does not certify to the truth of the statements made thereon, as no inquiry as to the facts has been provided by law.

Do not accept this transcript unless it bears the security features listed on the back. Reproduction or alteration of this transcript is prohibited by §3.19(b) of the New York City Health Code if the purpose is the evasion or violation of any provisions of the Health Code or any other law.

DATE ISSUED

May 13, 2011

Steven P. Schwartz
Steven P. Schwartz, Ph.D., City Registrar



ANY ALTERATION OR ERASURE VOIDS THIS CERTIFICATE

725 CONEY ISLAND AVENUE
BROOKLYN, NY 11218

DATE
March 1, 1994
NUMBER

Patty Avena

TERMS:

PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

\$

DATE

CHARGES AND CREDITS

BALANCE

BALANCE FORWARD →

FUNERAL OF ELEANOR AVERA

\$ 2,621 00

FUNERAL OF:

BLAIR MAZZARELLA FUNERAL HOME

Thank You

↑
PAY LAST AMOUNT
IN THIS COLUMN

723 CONEY ISLAND AVENUE
BROOKLYN, NY 11216

DATE
April 6, 1994
NUMBER

PATTY AVENA

TERMS:


PLEASE DETACH AND RETURN WITH YOUR REMITTANCE

\$ _____

DATE

CHARGES AND CREDITS

BALANCE

BALANCE FORWARD 

FUNERAL OF ELIZABETH AVENA

\$ 2,621.00

PLEASE REMIT PAYMENT

FUNERAL OF:

BLAIR-MAZZARELLA FUNERAL HOME

Thank You


PAY LAST AMOUNT
IN THIS COLUMN

BLAIR MAZZARELLA FUNERAL HOME

723 CONEY ISLAND AVENUE

BROOKLYN, N.Y. 11218

718-282-1164

Number 67

Date 3/17/93

Name of Deceased Elaine Avenue
Date of Death _____ Place of Death Cathleen Hosp

ITEMIZATION OF FUNERAL SERVICES AND MERCHANDISE SELECTED

The following are the charges for the services, merchandise, and livery you have selected. You will not be charged for any item you do not choose unless it is necessary because of other selections you have made. Any such charges are explained below.

I. FUNERAL HOME CHARGES

(Indicate N/A for items of service and/or merchandise that are not provided.)

A. Alternative Services

1. Direct Cremation \$ N/A
2. Direct Burial \$ N/A

B. Transfer of remains to the funeral establishment including personnel, equipment and vehicle. \$ 175

C. Preparation of Remains

1. Embalming (including use of preparation room) \$ 395

If you select a funeral for which this firm requires embalming such as a funeral with viewing, you may have to pay for embalming. You do not have to pay for embalming you do not approve if you select arrangements such as direct cremation or direct burial. If we charge for embalming, we will explain why below.

2. Other Preparation (including use of preparation room but excluding embalming)

- a. Topical Disinfection \$ N/A
b. Custodial Care \$ N/A
c. Dressing/Casketing \$ N/A
d. Cosmetology \$ N/A
e. Restoration \$ N/A
f. Other (specify) \$ N/A

D. Arrangements

Basic arrangements: including funeral director, other staff, equipment and facilities to respond to initial request for service, the arrangement conference, securing of necessary authorizations and coordination of service plans with parties involved in the final disposition of the deceased. \$ 395

E. Supervision (funeral director and staff)

1. Supervision for visitation \$ 150
2. Supervision for funeral service \$ 65
3. Other supervision (specify) \$ N/A

F. Use of the facilities

1. Use of the facilities for visitation \$ N/A
2. Use of facilities for funeral service \$ 700
3. Other use of facilities (specify) \$ N/A

G. Livery

1. a. Hearse or \$ 225
b. Alternative vehicle \$ N/A
(Specify type: _____)
2. Flower vehicle \$ N/A
3. Limousine(s) \$ N/A
(Specify number: _____ @ \$ _____ /limousine)
4. Passenger car(s) \$ N/A
(Specify number: _____ @ \$ _____ /car)

H. Merchandise

1. Casket or alternative container \$ 3290
a. Supplier Brooklyn
b. Model name or number Pure Peace
c. Material: Species of wood _____
or kind of metal steel weight or gauge 40
or alternative container (describe) _____
d. Interior crepe
2. Outer Interment Receptacle \$ 350
a. Supplier _____
b. Model name or number _____
c. Material concrete

I. Additional Services and Merchandise Selected (Describe and show price)

1. Memorial Cards \$ 18
2. Acknowledgement Cards \$ 18
3. Casket Plate \$ 18
4. Crucifix/Cross \$ 45
5. Hairdressing \$ N/A
6. Flowers \$ 175
7. Clothing or Burial Garments \$ N/A
8. Register Book \$ N/A
9. Death Notices \$ N/A
10. \$ N/A
11. \$ N/A
12. \$ N/A

J. Limited Services

1. Forwarding remains to \$ N/A
2. Receiving remains from \$ N/A

TOTAL OF FUNERAL HOME CHARGES \$ 5945

II. CASH ADVANCES

These are estimated charges for items to be paid to others. We will charge you no more for these items than is actually paid the third parties. (Describe and show estimated charges.)

1. Cemetery or Crematory	\$ 423
2. Clergy Honoraria	\$ 75
3. Death Certificate Transcripts 3 @ 15	\$ 45
4. Livery	\$ 110
5. Pallbearers 4 @ 27.5	\$ 110
6. Public Transportation	\$ 40
7. Gratuities	\$ 110
8. Bridge & Road Tolls	\$ 110
9. Telephone & Telegraph Charges	\$ 110
10.	\$
11.	\$
12.	\$

ESTIMATED TOTAL OF CASH ADVANCES

\$ 926

III. SUMMARY OF CHARGES

1. Funeral Home Charges	\$ 926
2. Cash Advances	\$ 926

TOTAL FUNERAL CHARGES

\$ 926

IV. EXPLANATION OF CHARGES

Explain charges for embalming and for any items that are not required by law but may be necessary because of cemetery requirements, crematory requirements or other selections made.

Lynda Duce 8-17-03
Signature of Licensed Funeral Director Date

Lynda Duce
Printed or Typed Name of Funeral Director

ACKNOWLEDGEMENT OF RECEIPT

I have received this itemization of funeral services and merchandise selected.

Patricia Chera 8-17-03
Signature Date

PUBLIC NOTICE

The New York State Department of Health is responsible for licensing and regulating New York State funeral directing under the Public Health Law.

You may contact the Department at:

Bureau of Funeral Directing
New York State Department of Health
Corning Tower, Empire State Plaza
Albany, New York 12237

EXCLUSION OF WARRANTY. The only warranties, express or implied, granted in connection with the goods sold with this funeral service are the express written warranties, if any, extended by the manufacturers thereof. No other warranties and no warranties of merchantability or fitness for a particular purpose are extended by the funeral director.

STATEMENT OF GOODS AND SERVICES SELECTED

INVOICE TO

The undersigned hereby authorizes the above funeral establishment or its representatives to obtain custody of the remains of

Eleanor Ayers
Initial and state your relation to deceased *Daughter*

The undersigned hereby authorizes the above funeral establishment or its representatives ☒ to embalm ☐ not to embalm the remains of

Eleanor Ayers
Initial and state your relation to deceased *Daughter*

Other Authorization by

"Charges are only for those items that are used. If we are required by law to use any items, we will explain the reasons in writing below."

TOTAL FUNERAL CHARGES \$ 6571

Date 19

The foregoing statement has been read by (to) me and I hereby acknowledge receipt of a copy of same and agree to pay the above funeral account and for such additional services and materials as are ordered by me, on or before 19. In the event that this account is not paid in accordance with the terms of this agreement, the undersigned hereby agrees to pay any and all costs and attorney's fees incurred in connection with the collection of this account.

Prior to the discussion of these funeral arrangements, I was presented with a copy of this funeral firm's "General Price List" for which I hereby acknowledge receipt, and have had an opportunity to review the firm's Casket Price List and Outer Interment Receptacle Price List.

TERMS: This account becomes due . If bill remains unpaid beyond a late charge of % per month (annual rate %) may be added to the unpaid portion of the balance due.

The liability hereby assumed is in addition to the liability imposed by law upon the estate and others, and shall not constitute a release thereof.

Signature *Patricia Chera*
Relation to Deceased *Daughter*

Signature
Relation to Deceased

By
Print Name of Licensed Funeral Director

ADDITIONS OR ALTERATIONS OF SERVICES AND MERCHANDISE SELECTED. The following changes represent items of service and/or merchandise ordered or altered subsequent to the original funeral agreement.

AUTHORIZATION INITIAL

☒ (-) View it \$ 850
☒ + 7.6100 + 11.0000 \$ 645
215 x 3 P.A.P.

Total Adjustments to Funeral Charges \$

ADJUSTED TOTAL \$

Credit \$

BAIANCE DUE \$

Viewing: Wed. 1 hr.
2-5: 7-9:30

Kegina PACIS R.C.
236-0909 Fr.

PLACE OF SERVICE Scarpaci F.H. 331-5000 TIME OF SERVICE 8/20 9:30

NAME:	FIRST	MIDDLE	LAST	SEX	DATE OF DEATH		
					MONTH	DAY	YEAR
	<u>Eleanor</u>		<u>Avena</u>	<u>F</u>	<u>8</u>	<u>17</u>	<u>93</u>

PLACE OF DEATH	CITY OR VILLAGE	TOWN	COUNTY	STATE
<u>Lutheran Hosp.</u>	<u>Brooklyn</u>		<u>Kings</u>	<u>N.Y.</u>

LEGAL RESIDENCE	CITY OR VILLAGE	TOWN	COUNTY	STATE
			<u>Kings</u>	<u>N.Y.</u>

DATE OF BIRTH		AGE	PLACE OF BIRTH	CITIZEN OF	VETERAN?	DATE'S OR WHICH WAR
MONTH	DAY	YEAR				
<u>July</u>	<u>15</u>	<u>15</u>	<u>78</u>	<u>Brooklyn</u>	<u>U.S.A</u>	<u>no</u>

MARITAL STATUS	SURVIVING SPOUSE MAIDEN NAME, IF WIFE	WAS DECEASED KNOWN BY ANY OTHER NAME?
<u>Widow.</u>		

EDUCATION: INDICATE HIGHEST GRADE COMPLETED ONLY

ELEMENTARY										HIGH SCHOOL					COLLEGE				
0	1	2	3	4	5	6	7	8	1	2	3	4	1	2	3	4	5		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

USUAL OCCUPATION	BUSINESS OR INDUSTRY	SOCIAL SECURITY NUMBER
<u>factory worker.</u>	<u>King Research</u>	
NAME & LOCATION OF FIRM OR CO.		

FATHER'S NAME	MOTHER'S MAIDEN NAME
<u>Carl Johnson</u>	<u>Jeanette Fox</u>

NEXT OF KIN	RELATIONSHIP
<u>Patty Avena.</u>	<u>Daughter</u>

ADDRESS	TELEPHONE

INFORMANTS NAME	RELATIONSHIP
<u>Dan</u>	<u>grandson</u>

ADDRESS	TELEPHONE

MAIL BILL TO: NAME	ADDRESS

Course OK 12:00 noon

~~Mr. Gallagher~~
~~Thurs. 8:00 PM~~

Certificate Permit No.

Removal Medical Exam.

Embalmer Lady Attend. Time.

Priest Line Ctsgnd.

Church Regina Pacis Am't: 250 Time 9:30

Cemetery Silvermount Am't: 405 + 18 Time 11:15

Cloister Insc. Form
737-7020 1/100 (ok)
Priest at
cemetery

Military Flag
for

Firing Squad Vet. Forms
for

Transcripts Soc. Sec.

Prayer Cards Am't: Type
for Abigail

Ack. Card Am't: Type
for

Memorial Pack #

Name Plate St. Br. K. 1/2 Door Badge
for

Clothing Us Family
for

Casket: St. Br. K. 1/2 Mfg. Desc.
for

Del. Stock Pink Rose

Outer Case: Mfg. Type Size
for

Livery Scarpacci Limousines family

Priest at Cemetery Viewing Time
for

Newspapers:
for

Verified
for

for 1/100

Porters - Scarpacci ok

Hearse (ok)

Limous family

Limous (ok)

Hearse car

1 / Scarpacci (ok)

2 /

3

4

TRANSPORTATION INFORMATION

BUS # 1152 VAN # _____ ARRIVED S.F.C. _____ DATE 8/19/21 TIME 7:58 AM
 # OF INMATES ON BUS 4
 # OF INMATES RECEIVED 0 Co Spry Lids
 # OF INMATES TRANSPORTED 5
 TOTAL INMATES 9 Returned w/ 5 3:55 PM
 DEPARTING T.M. 8:4
 DESTINATION Wallkill ETA _____
 NOTIFIED FACILITY _____
 EMPLOYEE NOTIFIED _____ TIME _____
 NOTIFIED CCC _____ TIME _____

Does Not require reporting - Medical HAB

SULLIVAN C. F. TRANSPORTATION INFORMATION

DESTINATION Summit PURPOSE Medical
 ESCORTING OFFICERS: 1) Co Taylor 9:01 AM E.T.A. 1 HR
2) Co Stated 10:30 AM
3) _____ LEFT 1:10 PM E.T.A. 1 HR
 RETURNED 2:27 PM

INMATES TRANSPORTED, (list below) LIST IF C.M.C.

91R 6141 GURGANOLO

SULLIVAN C. F. TRANSPORTATION INFORMATION

DESTINATION BKlyn NY PURPOSE Funeral
 ESCORTING OFFICERS: 1) Hill LEFT 10:10 AM E.T.A. 1:15
2) Hebech ARRIVED 1:45 P
3) BIVINS LEFT 3:15 E.T.A. 7:15
 RETURNED 6:13 P

INMATES TRANSPORTED, (list below) LIST IF C.M.C.

Persico 88A 6463
12:10 PM Count clear 728

*Sent CMC's Notification to C.C. on inmate Spradley 7/21/23
 message #616981*

*1:00 PM BKlyn funeral trip stuck in traffic
 won't make 1:00 PM Viewing - were told to
 proceed to destination - may make services.*

*1:40 PM Reminded by - St. R. Priest
 3:15 PM Relieved by Lt. Nealey for M. Huf*

6³⁰ W.C. on rounds
9⁰⁰ C.O. Hurbach and Ramos return w/ 2 inmates from St. Charles.
hE 6⁰⁰ One on one watch in M.H.H. has been lifted per O.M.H.
11⁰⁰ Count correct: In 720 Out 8 Tth 728
Relieved by Lt. Frisbie
hT. Hudy
11⁰⁰ Lt Frisbie reviewed log.

DAY: Wed DATE: 8/18/93 TIME SHIFT STARTS: 11 ¹⁵ PM TIME SHIFT ENDS: 7 ³⁰ AM	
WEATHER: Rain	TEMPERATURE: 62° Berchardt FIRE CHIEF:
WATCH COMMANDER: Frisbie	OFFICER OF THE DAY: OSA Capuano
SENIOR NURSE ON DUTY: Capulanti	INMATES OUT:
ANNEX COUNT - BEGINNING OF SHIFT: 185	END OF SHIFT: 185
MAIN COUNT - BEGINNING OF SHIFT: 543 / 728	END OF SHIFT: 543 / 728
VISITING COUNT - MAIN BUILDING: N/A	VISITING COUNT - ANNEX: N/A

Sgt. C. Amok - Main
Miller - annex

11¹² Co Brooks called from Harris Hosp, inmate moved from I.C.U. to 5-E-11.
11¹⁵ Line up + briefing.
12⁰⁰ AM Count correct: total 728
1⁰⁰ AM Co Brooks, all secure at Harris Hosp.
2⁰⁰ AM Count correct: total 728
3⁰⁰ AM Co Brooks, all secure at Harris Hosp.
4⁰⁰ AM Count correct: total 728
5⁰⁰ AM Co Brooks, all secure at Harris Hosp.
6⁰⁰ AM Count correct: total 728
7¹⁵ AM Log Review - Lt. Frisbie

DAY: Wed DATE: 8/18/93 TIME SHIFT STARTS: 7 ¹⁵ AM TIME SHIFT ENDS: 3 ³⁰ PM	
WEATHER: P/overcast	TEMPERATURE: 67° Fletcher FIRE CHIEF:
WATCH COMMANDER: Lt. Gandy	OFFICER OF THE DAY: OSA Capuano
SENIOR NURSE ON DUTY: Riley	INMATES OUT:
ANNEX COUNT BEGINNING OF SHIFT: 185	END OF SHIFT:
MAIN COUNT - BEGINNING OF SHIFT: 543	END OF SHIFT:
VISITING COUNT - MAIN BUILDING:	VISITING COUNT - ANNEX:

Sgt. Kester Anger
Cromley F/S
Dandow F/S
FERRIE H
DUNN HA
BAKER GC
DeVane H/A

8388

7:15 AM Line up + briefing
8:04 AM Lt. Gandy
8:30 AM Lt. Gandy
FD-5 REVIEWED Log



◎伊·瓦·伊兹米耶夫

DR. LUC
PHONE 29

OUT 2 10/26/94 01:48 PM

DUE: 10/26/94 07:00 PM

DIV.	EQUIPMENT NO.	DESCRIPTION	LOCAL RATES	ESTIMATED AMOUNT
00008H	7225H	GREAT HAULER TRUCK-24'		
VF08922	PA	RATE PER HL/HR: 0.99	39.9%	39.95
		MILEAGE OUT: 70,168.7		
		ESTIMATED MILES: 50.0		49.50
		SAFEMOVE PROTECTION	10.00	10.00

SALES TAX:	7.98
ESTIMATED RENTAL TOTAL:	106.82

TODAY'S RENTAL DEPOSIT:	200.00
TOTAL DEPOSIT:	200.00
TOTAL COLLECTED TODAY:	200.00
CASH:	200.00

(CUSTOMER INITIALS) I HAVE RECEIVED: * CONTRACT HOLDER * USER'S GUIDE(S)

BY SIGNING BELOW, I HAVE RECEIVED AND UNDERSTAND THE TERMS AND CONDITIONS PRINTED ON THE CONTRACT HOLDER. I AGREE TO PAY FOR ALL FUEL AND RETURN THE TRUCK FULL OF FUEL OR PAY A MINIMUM \$2 PER GALLON FOR ESTIMATED FUEL USED PLUS AN ADDITIONAL \$20 SERVICE FEE. I UNDERSTAND THAT ANY REPAIR DUE ME WILL NOT BE PAID UNLESS I RETURN WITH ALL EQUIPMENT RENTED AND RENTAL CONTRACT.

CUSTOMER SIGNATURE

DATE _____

EMPLOYEE SIGNATURE 04773

Salemwege is in effect when payment for coverage is received and limited on the contract. As a Salemwege customer, you are relieved of responsibility for most damage, yet we still must determine how the damage occurred. You need to file an Accident/Damage Report for your protection against further claims and so we can recover damage costs from responsible third party parties). Additionally, if you file an object or other personal property, a completed Accident/Damage Report is required in case of potential liability claim(s) made against "Hamp".

If you are not financially responsible for damages unless there is evidence of gross negligence or abuse, Safemove does not cover.

- Off-road use of the vehicle.
- Incorrect fuel.
- Cut, blown or damaged tires.
- Damage caused from low oil level.
- Damage caused while the driver or passengers were using any controlled substance (drugs) or alcohol, etc.
- Damage in the truck bed (box), rear doors or cab that resulted from overloading, improper loading or failure to secure the load.
- Mechanical damage resulting from overloading or juggling of the vehicle while towing or pulling a load.
- Damage that results from the vehicle being used in the commission of a crime.
- Other damage resulting from willful abuse and serious negligence.
- Damage that results from the failure to comply with the terms of the rental contract.

GOVERNMENT
EXHIBIT
865(a)
10 CR 147 (DLI)



P.
DESC.: MORTAL KOMBAT

G.W.: 6.0 KGS

N.W.: 5.0 KGS

MEAST.: 44X22X43 CM

DESC.: THE LION KING

G.W.: 7.3 KGS

N.W.: 6 KGS

MEAST.: 44X22X43 (CM)

DESC.: MIGHTY MORPHIN
POWER RANGERS

G.W.: 6.0 KGS

N.W.: 5.0 KGS

MEAST.: 44X22X43 CM







**SUMMARY CHART
PHONE RECORDS**

From		To		Date Range	Number of Contacts
Phone Number	Subscriber/User	Phone Number	Subscriber/User		
917-567-8741	Michael Persico (Romantique)	917-757-2359	Francis Guerra	June 2, 2008 - April 20, 2009	33
917- 757-2359	Francis Guerra	917-567-8741	Michael Persico (Romantique)	June 2, 2008 - April 20, 2009	81
917-567-8741	Michael Persico (Romantique)	347-288-9628	Anthony Russo (Maritza Medina)	January 6, 2009 - April 16, 2009	3
347-288-9628	Anthony Russo (Maritza Medina)	917-567-8741	Michael Persico (Romantique)	January 6, 2009 - April 16, 2009	11
917-567-8741	Michael Persico (Romantique)	732-673-4274	Anthony Stropoli (Ultimate Seafood Inc.)	January 29, 2009 - April 14, 2009	8
732-673-4274	Anthony Stropoli (Ultimate Seafood Inc.)	917-567-8741	Michael Persico (Romantique)	January 29, 2009 - April 14, 2009	7

From		To		Date Range	Number of Contacts
Phone Number	Subscriber/User	Phone Number	Subscriber/User		
917-757-2359	Francis Guerra	347-288-9628	Anthony Russo (Maritza Medina)	August 20, 2009 – July 26, 2010	1339
347-288-9628	Anthony Russo (Maritza Medina)	917-757-2359	Francis Guerra	August 20, 2009 – July 26, 2010	2317
917-757-2359	Francis Guerra	347-231-5175	Anthony Russo (Maritza Medina)	July 21, 2010 - August 30, 2010	142
732-673-4274	Anthony Stropoli (Ultimate Seafood Inc.)	917-757-2359	Francis Guerra	August 21, 2009 - January 20, 2011	94
732-673-4274	Anthony Stropoli (Ultimate Seafood Inc.)	347-288-9628	Anthony Russo (Maritza Medina)	September 10, 2009 - July 19, 2010	242
732-673-4274	Anthony Stropoli (Ultimate Seafood Inc.)	347-231-5175	Anthony Russo (Maritza Medina)	July 21, 2010 - September 2, 2010	69
914-246-9726	Michael Persico	718-996-8358	Joseph Monteleone (Anna Sottile)	December 31, 1991 - May 17, 1992	6

From		To		Date Range	Number of Contacts
Phone Number	Subscriber/User	Phone Number	Subscriber/User		
718-875-3955	Eric Curcio	718-745-8345	Joyce Persico (Alphonse Persico's Mother)	August 18, 1994	1
718-356-0208	Michael Sessa	914-246-9726	Michael Persico	February 29, 1992 – June 10, 1992	3
917-757-2359	Francis Guerra	718-312-9032	Michael Sessa (Smily)	September 25, 2009- December 22, 2010	10
718-312-9032	Michael Sessa (Smily)	917-757-2359	Francis Guerra	September 25, 2009- December 22, 2010	28
917-757-2359	Francis Guerra	646-400-9696	Ambrose	September 10, 2009- February 9, 2011	217
646-400-9696	Ambrose	917-757-2359	Francis Guerra	September 10, 2009- February 9, 2011	150
917-757-2359	Francis Guerra	718-234-5580	Patty Avena	June 9, 2010- December 6, 2010	4
917-757-2359	Francis Guerra	917-538-1365	Scott Reback (Jew)	August 20, 2009- January 6, 2011	176
917-538-1365	Scott Reback (Jew)	917-757-2359	Francis Guerra	August 20, 2009- January 6, 2011	137

From		To		Date Range	Number of Contacts
Phone Number	Subscriber/User	Phone Number	Subscriber/User		
917-757-2359	Francis Guerra	917-567-0028	Suzzie Girl	August 20, 2009- December 17, 2009	8
917-757-2359	Francis Guerra	718-680-5072	Suzzie Girl	August 20, 2009-September 22, 2009	8
718-680-5072	Suzzie Girl	917-757-2359	Francis Guerra	August 20, 2009-September 22, 2009	5
718-219-4572	Susie Girl Little	917-757-2359	Francis Guerra	January 20, 2011	2
917-757-2359	Francis Guerra	718-708-0923	Suzzie Girl	August 27, 2009- December 18, 2009	19
718-708-0923	Suzzie Girl	917-757-2359	Francis Guerra	August 27, 2009- December 18, 2009	92

GOVERNMENT
EXHIBIT
7000
10 CR 147 (DLI)

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

2 -----x
3 UNITED STATES OF AMERICA :
4 PLAINTIFF, : 10CR147
5 :
6 versus : United States Courthouse
7 : 225 Cadman Plaza East
8 : Brooklyn, N.Y. 11201
9 FRANK GUERRA, :
10 : June 19, 2012
11 DEFENDANT. : 9:30 A.M.
12 -----x

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TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE SANDRA L. TOWNES
UNITED STATES DISTRICT COURT JUDGE

1 A P P E A R A N C E S:
2 For the Government:

3 LORETTA LYNCH
4 United States Attorney
5 BY: NICOLE ARGENTIERI, ESQ.
6 RACHEL NASH, ESQ.
7 ALLON LIFSHITZ, ESQ.
8 Assistant United States Attorney
9 271 Cadman Plaza East
10 Brooklyn, New York 11201

11 For the Defendant:

12 GERALD J. MCMAHON, ESQ.
13 MATHEW J. MARI, ESQ.
14 Court Reporter:
15 Charisse Kitt, CRI, CSR, RPR, FCRR
16 225 Cadman Plaza East Rm N357
17 Brooklyn, New York 11201
18 Tel: (718) 613-2606
19 Fax: (718) 613-2696

20 Proceedings recorded by mechanical stenography, transcription
21 by computer-aided transcription.

22 CHARISSE KITT, CRI, CSR, RPR, FCRR
23 Official Court Reporter

1

9

JOHN DEGUILIO,

10 called as a witness, having been duly sworn, was examined and
11 testified as follows:

12 THE COURT: Please be seated. Tell us your full
13 name and spell it.

14 THE WITNESS: John, J-o-h-n, Deguilio,
15 D-e-g-u-i-l-i-o.

16 MR. LIFSHITZ: May I inquire, Your Honor?

17 DIRECT EXAMINATION

18 BY MR. LIFSHITZ:

19 Q Good morning, sir.

20 A Good morning.

21 Q Where did you work in 1993?

22 A The New York City Police Department, crime scene unit.

23 Q And when did you work for the police department?

24 A From 1984 to 2004.

25 Q Are you retired now?

Deguilio - Direct/Lifshitz

1 A Yes.

2 Q And you mentioned the crime scene unit; is that also
3 known as the CSU?

4 A Yes.

5 Q Approximately what years did you work in the CSU?

6 A Early '93 to around September of 2000.

7 Q And generally speaking, what were your responsibilities
8 when you worked in the CSU?

9 A I responded to crime scenes and we photographed,
10 sketched, and documented and collected any evidence that was
11 present.

12 Q Directing your attention to October 20, 1993, did you
13 work that day?

14 A Yes.

15 Q What shift?

16 A I started at 2 p.m. on October 20th, and my shift ended
17 at 8 a.m. on October 21st.

18 Q Directing your attention to the late evening of the 20th,
19 did you get a call to respond to a crime scene?

20 A Yes, I did.

21 Q Where, if anywhere, did you go as a result of getting
22 that call?

23 A We responded to -- within the 106th Precinct, which was
24 in Queens County, respond to 110th Street between 107th and
25 109th.

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1 Q 107th and 109th Avenue?

2 A Correction, 107th.

3 Q When you arrived what did you see?

4 A There was police vehicles present and there was yellow
5 tape sectioning off an area within that block.

6 Q What kind of street was it?

7 A It was residential.

8 Q What did you do when you first arrived?

9 A I conferred with one of the detectives that was at the
10 scene, he advised us what he needed to have done at that
11 location, and then I proceeded to -- I sketched the scene.

12 Q Scene of 110th Street?

13 A Yes.

14 Q What else did you do, if anything, at 110th Street?

15 A Once I had sketched the scene, I photographed the scene
16 and collected evidence that was located there.

17 Q Other than 110th Street, where else, if anywhere, did you
18 go in connection with this particular crime scene?

19 A It was, as I recall, a few blocks away; I believe it was
20 106th Street. It was a vehicle located that was running and
21 was noted to us that it may have been involved with the prior
22 crime scene that we were working on.

23 Q The scene at 110th Street?

24 A Correct.

25 MR. LIFSHITZ: May I approach, Your Honor?

1 THE COURT: Yes.

2 Q I'll hand the witness a series of photographs that have
3 been marked Government Exhibits 17A, -B, and -C; 18A, -B, -C,
4 -D, and -E; 18-1A, -B, and -C?

5 THE COURT: Don't -- wait. Don't talk so fast.
6 18-1?

7 MR. LIFSHITZ: 18-1A, -B, and -C; and 19A and -B.

8 Q Please look at these exhibits and tell us if you
9 recognize them.

10 (Hanging.)

11 (Witness perusing.)

12 A These are the photographs that I had taken of the crime
13 scene.

14 Q Do they fairly and accurately depict items and scenes you
15 observed that night?

16 A Yes.

17 Q October 20, 1993?

18 A Yes, they do.

19 MR. LIFSHITZ: Your Honor, the government moves to
20 admit the exhibits that was just handed to the witness. I can
21 read off the numbers again, if it would help.

22 THE COURT: Mr. McMahon.

23 MR. McMAHON: No objection.

24 THE COURT: All right, no objection. I will
25 receive, and I will read off the numbers. Tell me if I've

Deguilio - Direct/Lifshitz

1 missed anything.

2 MR. LIFSHITZ: Sure.

3 THE COURT: 17A, 17B, and 17C, 18A, -B, -C, -D,
4 and -- E; 18-1A, -B, and -C; and 19A and -B.

5 MR. LIFSHITZ: Yes, that's everything. Thank you,
6 your Honor.

7 THE COURT: Received.

8 (Government's Exhibits 17A, 17B, 17C, 18A, 18B, 18C,
9 18D, 18E, 18-1A, 18-1B, 18-1C, 19A and 19B received in
10 evidence.)

11 MR. LIFSHITZ: May I approach again?

12 THE COURT: Yes.

13 MR. LIFSHITZ: I will show the witness a board that
14 we've marked as Government Exhibit 17.

15 Q Does this exhibit consist of enlarged versions of the
16 photographs at Government Exhibits 17A, -B, and -C?

17 A Yes, they do.

18 MR. LIFSHITZ: Your Honor, the government would move
19 to admit Exhibit 17.

20 THE COURT: Mister --

21 MR. McMAHON: No objection.

22 THE COURT: I'll receive Government Exhibit 17.

23 (Government's Exhibit 17 received in evidence.)

24 MR. LIFSHITZ: Your Honor, may I display it on the
25 easel and ask the witness to stand down?

Deguilio - Direct/Lifshitz

1 THE COURT: Yes, you may.

2 MR. LIFSHITZ: Thank you.

3 Q Please explain to the jury what's depicted in the picture
4 on the top left of this board which corresponds to
5 Exhibit 17A?

6 A This is glass fractures that are on the street opposite
7 107-45 110th Street.

8 Q What -- is there a car depicted in that picture?

9 A Yes, a white Cadillac.

10 Q Is the glass from the Cadillac?

11 A No, it wasn't.

12 Q What's depicted in the picture on the bottom left of this
13 board which corresponds to Exhibit 17B?

14 A If you were standing in front of 107-44 on 110th Street,
15 right in front of the home, this what the photo is showing a
16 Nissan Altima.

17 Q Does the Cadillac in the top left picture appear in the
18 bottom?

19 A Yes, it does, on the opposite side of the street.

20 Q So within that particular picture is the top most car on
21 the right?

22 A Yes.

23 Q And is there any damage to the Nissan that's in the
24 foreground of the picture?

25 A On this photo you can see that the rear window is

Deguilio - Direct/Lifshitz

1 shattered.

2 Q Take a look at the picture on the right of the board,
3 which corresponds to Government Exhibit 17C.

4 What's depicted in that picture?

5 A This is the Buick that has a fractured rear window and a
6 blown out rear driver's side passenger door window on 106th
7 Street.

8 Q And is that how it appeared when you found it on
9 106th Street?

10 A Yes. The vehicle was running, actually.

11 Q Thank you.

12 MR. LIFSHITZ: Your Honor, I'd like to next show the
13 witness a board marked Government Exhibit 18.

14 If you grab the folder containing the 18 series.

15 Does this board contain enlarged versions of 18A,
16 -B, and -C?

17 A Yes, it does.

18 MR. LIFSHITZ: Your Honor, I would move to admit
19 Government Exhibit 18.

20 THE COURT: Any objection.

21 MR. McMAHON: No, Judge.

22 MR. LIFSHITZ: And may I place it on the easel.

23 THE COURT: Exhibit 18 is received.

24 (Government's Exhibit 18 received in evidence.)

25 THE COURT: Yes, you may.

Deguilio - Direct/Lifshitz

1 MR. LIFSHITZ: Thank you.

2 Q Now looking at Exhibit 18, the board that's in front of
3 you, can you please explain what's depicted in the top left
4 picture, which corresponds to 18A?

5 A This is the Nissan Altima that's in front of 107-43 and
6 107-45 on 110th Street.

7 Q Is this the opposite prospective of what was on the
8 previous board, the board marked 17?

9 A Yes. I was standing in front of the home as it was shot
10 of the passenger side out. This is the opposite facing.

11 Q And what can you see in this picture?

12 A You could also see where the shattered glass -- this
13 window here is blown out, the driver's side door.

14 Q The front driver's side door?

15 A That's correct. And two bullet impact marks on this
16 vehicle. And you can see that rear window is shattered.

17 Q Does glass appear in that picture?

18 A If you stepped out of the vehicle right below it.

19 Q Under the driver's door?

20 A Yes.

21 Q What's depicted in the picture on the top right of this
22 board, which I believe corresponds to 18B?

23 A This is the same vehicle in this photograph on the left,
24 just another view of it. And it's showing that the rear
25 window -- you see how it's completely blown out.

1 Q You're pointing to the vehicle on the right side of the
2 picture that has open doors?

3 A Yes. The vehicle was never moved from where it was at
4 that time.

5 Q And you may have said this, but can you see any damage to
6 the vehicle in this picture?

7 A Yes. The rear view shattered window and glass along the
8 front driver's side door.

9 Q And finally, the bottom 18C. Can you explain what's in
10 that picture?

11 A Also the Nissan Altima, closer photograph of it, where
12 you could see where the two bullet impact marks are on the
13 vehicle. You see the rear window shattered. You can see that
14 this window here is blown out. And you can also see on the
15 ground below here the shattered glass.

16 Q And that's below the drivers window?

17 A Yes.

18 Q I think you mentioned ballistics damage just now. Can
19 you just point it out and describe in your own words where it
20 appears?

21 A These are bullet impact marks; one is on the driver's
22 side rear door towards the rear. I will refer to it as the
23 post, between the rear window and door. There's one right
24 here.

25 Q Above that door?

Deguilio - Direct/Lifshitz

1 A Yes.

2 Q Above the rear driver's side door?

3 A This is where the bullet impact mark was.

4 Q Thank you. You can have a seat.

5 (Witness complies.)

6 Q I'll show you what's in evidence as
7 Government Exhibit 18E. I'll just put it up on the Elmo.

8 Can you explain what this picture depicts?

9 A Yes. This is the front entryway to 104-35 -- excuse me.
10 Could I refer to paperwork in regards --

11 Q Yes. Is there anything that might refresh your
12 recollection?

13 A Yes, my crime scene report.

14 MR. LIFSHITZ: For the record, this is 3500JD3.

15 A Yes, this is 107-43 110th Street.

16 Q Is there any ballistics damage on this picture?

17 A Yes. Between the window and the front door there's an
18 exterior light. There's a bullet hole just below the light.

19 Q If you could touch the screen, maybe immediately next to
20 the bullet holes?

21 A That didn't come out where it was supposed to go.

22 Q Try again.

23 A It's still not in the right place.

24 Q Is this one of the bullet holes?

25 A Yes.

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1 Q Just below the light around the middle of the picture?

2 A That's correct.

3 Q And where did you say the other one was?

4 A Above the light there's a decorative piece on top of the
5 light, just to the left of it.

6 Q Partially blocked --

7 A By the light, yes.

8 THE COURT: Wait. Please don't talk at the same
9 time. Don't talk at the same time. She can't take both of
10 you.

11 MR. LIFSHITZ: Yes, Your Honor.

12 Q Is the second bullet hole partially blocked by the light
13 fixture?

14 A Yes.

15 Q I show you what's in evidence as 18D. What does this
16 picture depict?

17 A This is 107-45 110th Street. This is showing -- this is
18 a porch that would stick out from the home. This is the north
19 side of the front of that building.

20 Q Are there any bullet holes visible in this picture?

21 A Yes.

22 Q And where are they?

23 A One is to the window that's facing in the aluminum frame
24 and then there's an additional bullet --

25 Q The window on the right or the left?

1 A The window to the left, in the -- to the left of the
2 aluminum frame, there's a bullet hole on the other side.

3 Right there, over here. No --

4 Q Right above that?

5 A No, to the left of that, towards the corner of that --

6 Q Is that -- is that bullet hole easier to see from an
7 anterior view?

8 A Yes, it is.

9 Q Okay, we'll get to that.

10 Where is the other bullet hole?

11 A The other bullet hole is right here. It would be the
12 window -- first window to the right of the main window. You
13 can see in this photograph there's a bullet hole. That's
14 where it would be; correct.

15 And then there's an additional bullet hole further
16 up in the window that would be closer to -- where you see most
17 of this black framework to the right of the photograph.

18 Q Okay. Is that bullet hole visible in this picture?

19 A Yes, further up. It's a little difficult to see, but
20 it's there.

21 Q Can you press down on the screen where it is?

22 A That's not marking it in the correct location.

23 THE COURT: Is it the glass or around --

24 THE WITNESS: Yes, the glass. This is marking it in
25 the wrong location.

Deguilio - Direct/Lifshitz

1 THE COURT: All right.

2 MR. LIFSHITZ: Your Honor, can I ask the witness to
3 step down briefly?

4 THE COURT: Yes.

5 Q Can you step down to the board that's Exhibit 18.

6 (Witness complies.)

7 Q On the top left-hand picture, can you indicate where the
8 two houses are that we just saw closeup photographs of.

9 A Yes, this is 107-43.

10 Q The gray house in the middle.

11 A And this is the white house with the black trim, 107-45.

12 Q On the right side of that picture?

13 A That's correct. And this is the house that you were just
14 showing me a photograph of.

15 Q Okay.

16 THE COURT: He's pointing to what on the --

17 MR. LIFSHITZ: He's pointing to the top left picture
18 on the board. And he first pointed to the middle house in
19 that picture and then he --

20 Q What's the address of the middle house, just for clarity?

21 A 107-43.

22 Q And the right-end house on that picture?

23 A 107-45.

24 Q Okay, thank you.

25 MR. LIFSHITZ: May I approach again, Your Honor.

Deguilio - Direct/Lifshitz

1 THE COURT: Yes.

2 MR. LIFSHITZ: You can sit down for a second.

3 Q I'm going to show the witness the board marked 18-1 and
4 I'll ask you to refer to Government Exhibits 18-A, -B, and -C.

5 (Hanging.)

6 Q Does Government Exhibit 18 contain enlarged versions of
7 18A through -C?

8 A Yes.

9 MR. LIFSHITZ: Your Honor, I move to admit
10 Government Exhibit 18-1, the board?

11 THE COURT: Any objection?

12 MR. McMAHON: No objection.

13 THE COURT: I'll receive Government's Exhibit 18-1.

14 MR. LIFSHITZ: And may I place it on the easel?

15 THE COURT: Yes.

16 MR. LIFSHITZ: And have the witness step down.

17 Q What house do these pictures depict on board 18-1?

18 A Photograph to the left is 107-45 110th Street, that's an
19 anterior photograph. This first photo is showing the bullet
20 hole that came through the, the window frame.

21 Q And where are you pointing on that picture on the left?

22 A This will be right here to -- it will be the left. If
23 you're looking from outside, it would be on your left, but
24 this is on your right looking out.

25 Q And is that the bullet hole you explained was harder to

1 see from the exterior than the anterior?

2 A Yes, this bullet hole faces 110th Street.

3 Q And what's depicted in the middle picture?

4 A This is the anterior door of the same location, 107-45
5 110th Street, depicting a coat rack. And also there's a
6 bullet hole in this glass pane, and this glass pane.

7 Q And the first bullet hole you pointed to, is that toward
8 the top of the picture in the middle glass pane?

9 A Yeah, closer to the curtain.

10 Q And the second bullet hole you pointed to, is that to the
11 left side of the middle row panes?

12 A That's correct, closer to where these jackets are.

13 Q And finally the right hand picture, some what does that
14 depict?

15 A This is three porch windows that face 110th Street.

16 Q Is this an exterior view or anterior view?

17 A That is facing the location.

18 Q Sorry, was this taken outside the house or inside?

19 A Yes, I was outside the house when this picture was taken.

20 Q Does it show any bullet holes?

21 A There's one in the left window here.

22 Q A little less than halfway, a little less than the
23 halfway point of that window?

24 A Right below the multi-panes there's another additional
25 bullet hole here.

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1 Q In the middle window?

2 A It would be another bullet hole here which is the center
3 window of the three windows.

4 Q Now, are you pointing to a spot a little bit below the
5 middle of that window?

6 A Yes. Also below these multi-pane windows and lower
7 window.

8 Q Thank you. You may have a seat.

9 (Witness complies.)

10 Q Now, you mentioned 106th Street before. Did there come a
11 time on this night where you went to 106th Street?

12 A Yes, I did.

13 Q Can you tell us why you went there?

14 A We were advised there was a vehicle that may have been
15 connected to this crime scene.

16 Q What did you do at 106th Street?

17 A I photographed a Buick that was parked on the road. I
18 noticed a weapon in the vehicle. And I photographed that
19 weapon also, and eventually I recovered the weapon.

20 (Continued on the next page.)

21

22

23

24

25

Deguilio - Direct/Lifshitz

1 MR. LIFSHITZ:

2 Q What color was the Buick?

3 A It was brown and gold.

4 MR. LIFSHITZ: May I approach, your Honor.

5 THE COURT: Yes, you may.

6 (Approaching the witness.)

7 Q Briefly showing him Government's 17 which is already in
8 evidence.

9 Does the right-hand picture on this border depict
10 the Buick?

11 A Yes, it is.

12 Q And is that how it was recovered on 106th Street?

13 A Yes.

14 Q Now, I'd like to show the witness what's not yet in
15 evidence a board 19, Exhibit 19.

16 Do you have the photographs 19-A and B in front of
17 you?

18 A Yes I do.

19 Q Does this board, Exhibit 19, contain enlarged versions of
20 19-A and B?

21 A Yes, they are.

22 MR. LIFSHITZ: I move to admit Exhibit 19, your
23 Honor.

24 THE COURT: Any objection?

25 MR. McMAHON: No, Judge.

1 THE COURT: I'll receive Exhibit 19.

2 (Government's Exhibit 19 was received in evidence as
3 of this date.)

4 MR. LIFSHITZ: May I publish it on the easel?

5 THE COURT: Yes.

6 MR. LIFSHITZ: And ask the witness to stand down.

7 (Witness leaves the witness stand.)

8 Q Looking at Government Exhibit 19, the board in front of
9 you.

10 What does the picture on the left hand depict?

11 A This photograph depicts the rear sitting area of the 1984
12 Buick which is showing a semiautomatic weapon with a
13 suppressor, which is more commonly known as a silencer.

14 There's also a wool hat sitting on the seat and
15 there were cartridges also sitting on the seat which would be
16 on the rear passenger side.

17 Q Just so the record is clear. The firearm you refer to,
18 is that leaning against the back seat and also on the floor?

19 A Yes, it is. The suppressor, the silencer, is against the
20 floor and the weapon itself is up against the seat.

21 Q And is the wool cap you referred near the middle of the
22 back seat area?

23 A More towards behind the driver's area, but it's in the
24 center. Toward the center, also.

25 Q And you referred so some other evidence toward the top of

1 the picture. What are those items?

2 A These are cartridges.

3 Q What is a cartridge?

4 A Being an unfired bullet.

5 Q Again, so the record is clear, are those items on the
6 rear passenger side seat?

7 A Yes, they are. Right here.

8 Q Is there any glass in this picture?

9 A Yes, glass on the seat and also on the floor of the
10 vehicle.

11 Q What does the picture on the right depict?

12 A This photograph here is this weapon that's in the
13 previous photograph.

14 Q And where was the picture on the right taken?

15 A This is taken in the 106th Precinct Detective Squad. I
16 had removed the magazine to make the weapon safe, then I
17 processed it for latent fingerprints.

18 Q Other than having removed the magazine, does that picture
19 accurately depict the weapon as you found it?

20 A Yes, it does.

21 Q Can you point out the magazine, the silencer, and the
22 firearm, please?

23 A This would be a silencer so it has white metal finish;
24 this is the weapon; and this is the magazine that would insert
25 in this position into the weapon.

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1 Q So, the magazine is on the bottom of the picture?

2 A That's correct.

3 Q And the silencer is still attached to the gun in this
4 picture?

5 A Yes, it is.

6 Q By the way, what, if anything, did you first observe
7 about the Buick that we've been discussing when you first
8 found it on 106th Street?

9 A It was still running.

10 MR. LIFSHITZ: Thank you. You may have a seat.

11 (Witness takes the witness stand.)

12 MR. LIFSHITZ: Your Honor, may I approach.

13 THE COURT: Yes, you may.

14 MR. LIFSHITZ: I will show the witness 12-B-2 which
15 is a brown envelope and ask you to open that up and take a
16 look at what's inside.

17 THE WITNESS: (Complying).

18 Q Are there two envelopes in there?

19 A Yes.

20 Q Do you recognize those envelopes that were inside the
21 larger envelope?

22 A Yes, I do.

23 Q How are you able to recognize them?

24 A They have the crime scene sticker number that I applied
25 to them. The run number, my name, my shield number, the date,

1 the precinct, and each one is marked D-2 and one is marked
2 D-3.

3 Q Do you recognize what is inside those envelopes, D-2 and
4 D-3?

5 A D-2 is a deformed copper jacketed lead.

6 Q Are you able to recognize it?

7 A Yes. This is still marked as I had marked it then.

8 Q How?

9 A D-2.

10 Q How did you mark it?

11 A With a metal describer.

12 Q You marked D-2 on it?

13 A Yes, I did.

14 Q And what about D-3? Take a look at what's inside the
15 envelope marked D-3?

16 A (Complying).

17 Q Do you recognize that item?

18 A Yes, I do.

19 Q How do you recognize it?

20 A This is marked D-3.

21 Q Did you mark it?

22 A Yes, I did.

23 Q Okay. And, for the record, what are D-2 and D-3?

24 A D-2 is a piece of deformed copper jacketed lead and D-3
25 is also a piece of deformed copper jacketed lead.

1 MR. LIFSHITZ: Your Honor, the Government would move
2 to admit Exhibit 12-B-2.

3 THE COURT: Any objection.

4 MR. McMAHON: No, Judge.

5 THE COURT: I will receive Government's
6 Exhibit 12-B-2.

7 (Government's Exhibit 12-B-2 was received in
8 evidence as of this date.)

9 Q Are the items in there which are in envelopes marked D-2
10 and D-2 items you recovered at the crime scene you visit on
11 the note night of October 20, 1993?

12 A Yes, they are.

13 Q Where did you recover each those items?

14 A D-2 and D-3 were recovered in the roadway behind the
15 vehicle which I noted was the Nissan Altima.

16 Q On the street closer to the street or closer to the
17 houses?

18 A It would be within the street. It would be more or less
19 on the driver's rear driver's side of that vehicle.

20 Q By the way, is there a voucher number associated with
21 this Exhibit 12-B-2?

22 A Yes.

23 Q What is it?

24 A F195469.

25 Q When you say "Frank" is that an F?

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1 A F for Frank.

2 Q Okay.

3 MR. LIFSHITZ: May the witness stand down briefly
4 and I'll show him the board that's in evidence as 18.
5 Government Exhibit 18.

6 (Witness leaves the witness stand.)

7 Q Can you please point out on this board on the top left
8 picture where you found the items that are contained in
9 12-B-1?

10 A This general area right here.

11 Q Are you pointing out the Nissan and closer to the street
12 side?

13 A In the roadway, yes.

14 Q Thank you.

15 (Witness takes the witness stand.)

16 Q Now, I'll show you another envelope this one is marked
17 Government's Exhibit 12-B-1.

18 A (Complying).

19 Q You can open that up and take a look at the envelopes
20 inside it.

21 Are those envelopes marked D-1, D-4, D-5, and D-6?

22 A Yes, they are.

23 Q Do you recognize the envelopes?

24 A Yes. I prepared these myself and they contain the run
25 number, my name and shield number, and the D-1, 4, 5, and 6.

Deguilio - Direct/Lifshitz

1 Q Can you please look inside each envelope and tell us what
2 you recognize is inside of it and how you recognize it?

3 A D-1 is a discharged shell. I scribed it inside the
4 shell. D-4 is a piece of copper jacketed lead which also has
5 the scribe number of D-4 I placed on it. D-5 is a piece of
6 deformed metal which also has what I inscribed on it which is
7 D-5. And D-6 is a piece of deformed lead which I also
8 inscribed D-6 on.

9 MR. LIFSHITZ: Your Honor, can the witness stand
10 down again so he may refer to Exhibit 18-1 of the boards.

11 THE COURT: Yes.

12 MR. LIFSHITZ: You can bring your report if it helps
13 refresh your recollection.

14 (Witness leaves the witness stand.)

15 Q I would like you to tell the jury and, if possible, point
16 out on that board where you recovered items D-1 and D-4?

17 A D-1 was recovered right near where this shattered glass
18 is.

19 Q You're pointing at the top left picture?

20 A The top left picture is the near where the driver's side
21 door is opened.

22 Q Yes.

23 A D-4, if I may refer to my paperwork.

24 Q To refresh your memory, yes.

25 A (Complying). Are you referring to D-4?

1 Q Yes.

2 A D-4 was actually recovered inside this location which is
3 107-45.

4 Q Are you pointing to the top left picture?

5 A Yes, the home that's white with the black trim.

6 Q The home on the right of that picture?

7 A Yes.

8 Q And where within the home was that found?

9 A There's an organ.

10 Q I apologize. Did you say it was outside the house or
11 inside the house?

12 A No, D-4 was on the interior.

13 Q Where was it?

14 A After you walked through this small porch area, there's a
15 secondary door and there was an organ to the right near the
16 coat rack and it was laying on top of the organ.

17 Q Did you take handwritten notes as you walked through the
18 crime scene?

19 A Yes.

20 Q Would those handwritten notes help refresh your
21 recollection?

22 A Yes.

23 Q I will show him what's mark as 3500-JD-4?

24 THE COURT: All right.

25 Q Does this document refresh your recollection about where

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1 item D-4 was found?

2 A D-4, according to my handwritten notes, what I had
3 written at the scene was six feet north of building line which
4 would have made it outside the location.

5 Q Which location?

6 A 107-45 110th Street.

7 Q The house in the top-left picture on the right side of
8 that picture?

9 A The white house with the black trim.

10 MR. LIFSHITZ: Your Honor, for the record, I don't
11 believe I move to admit Exhibit 12-B-1 which contains the
12 items.

13 THE COURT: You're not moving?

14 MR. LIFSHITZ: I have not, but I now am. It was an
15 oversight on my part.

16 THE COURT: Any objection?

17 MR. McMAHON: No objection.

18 MR. LIFSHITZ: Thank you.

19 THE COURT: I will receive Exhibit 12-B-1.

20 MR. LIFSHITZ: Thank you.

21 (Government's Exhibit 12-B-1 was received in
22 evidence as of this date.)

23 Q And now let me show you again the board marked as
24 Government Exhibit 18-1.

25 Can you please explain to the jury and point out on

1 this board where you recovered items D-5 and D-6 which are
2 contained within Exhibit 12-B-1?

3 A You can't see this photograph, but D-5.

4 Q Which photograph are you pointing at?

5 A The middle photograph.

6 Q Okay.

7 A The organ was in this area here where D-5 was recovered.

8 Q On top of an or began?

9 A Yes.

10 Q And D-6?

11 A D-6 was recovered within this jacket that was hanging.

12 Q Pointing at the same picture?

13 A Yes.

14 Q And the jacket that's toward the top of a coat rack?

15 A Yes.

16 Q You can return to your seat.

17 (Witness takes the witness stand.)

18 Q Is there a voucher number associated with
19 Government Exhibit 12-B-1?

20 A F, as in Frank, 195469.

21 MR. LIFSHITZ: Your Honor, may I approach again.

22 THE COURT: Yes.

23 MR. LIFSHITZ: I will show the witness Government's
24 Exhibits 13-A, B, and C.

25 THE COURT: 13-A?

1 MR. LIFSHITZ: A, B, and C, yes.

2 Q Here you go, sir.

3 Can you please tell us if you recognize these items?

4 A Yes, I do.

5 Q How are you able to recognize them?

6 A These are -- this is the weapon that I recovered from the
7 1984 Buick. The silencer which is no longer attached to the
8 weapon is marked JD-1.

9 Q Did you make it JD-1?

10 A Yes, I did.

11 Q And the firearm itself?

12 A The firearm also is marked JD-1.

13 Q On the handle?

14 A On the handle with black marker.

15 THE COURT: And your exhibit numbers?

16 MR. LIFSHITZ: The firearm is 13-A; the silencer is
17 13-B; and the magazine is 13-C, but, for the record, they're
18 all contained in one sealed bag.

19 THE COURT: Yes. And 13-D is.

20 MR. LIFSHITZ: Is a magazine.

21 THE COURT: Thank you.

22

23 EXAMINATION BY

24 MR. LIFSHITZ:

25 (Continuing.)

1 Q Do you recognize the magazine?

2 A Yes, I do because it has the markings that I etched in
3 JD-1.

4 Q And just to be clear what are these items?

5 A Semiautomatic .9 millimeter handgun, a magazine that was
6 removed from it, and this is the suppressor, the silencer,
7 that was attached to the gun when I recovered it.

8 Q Where did you recover the items?

9 A The rear seat, driver's side passenger area of the 1984
10 Buick On 106th Street.

11 Q On October 20, 1993?

12 A Correct.

13 MR. LIFSHITZ: Your Honor, the Government would move
14 to admit Exhibits 13-A, B, and C.

15 MR. McMAHON: No objection.

16 THE COURT: Received.

17 (Government's Exhibits 13-A, B, C was received in
18 evidence as of this date.)

19 Q What voucher number is associated with this evidence?

20 A R195469.

21 MR. LIFSHITZ: Your Honor, no further questions at
22 this time.

23 MR. McMAHON: No cross, your Honor.

24 THE COURT: Thank you. You may step town.

25 THE WITNESS: Have a nice day.

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X

4 UNITED STATES OF AMERICA, :

10-CR-147

5

-against-

United States Courthouse

6

: Brooklyn, New York

7

FRANCIS GUERRA,

8

Defendant.

9

: June 27, 2012
9:30 o'clock a.m.

10 - - - - - X

11 TRANSCRIPT OF TRIAL
12 BEFORE THE HONORABLE SANDRA L. TOWNES
13 UNITED STATES DISTRICT JUDGE, and a jury
14 ATTORNEYS FOR GOVERNMENT:

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24 Proceedings recorded by mechanical stenography,
transcript produced by CAT.

25

MARSHA DIAMOND, CSR, RPR
OFFICIAL COURT REPORTER

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THE WITNESS: First name is Maria, M A R I A; last
name is Kinigopoulos, K I N I G O P O U L O S.

MS. NASH: May I inquire, judge?

THE COURT: Yes.

MS. NASH: Thank you.

DIRECT EXAMINATION

BY MS. NASH:

Q Are you currently employed?

A I am.

Q Where do you work?

A I am an intelligence analyst with the Federal Bureau of
Investigation.

Q How long have you been with the FBI?

A Since 2003; and I have been an intel analyst since 2007.

Q Since 2000-what?

A Seven.

Q What do you do as an intelligence analyst with the FBI?

A Some of my duties include reviewing phone records,
analyzing them, running background checks, disseminating
intelligence to law enforcement.

GR OCR CM CRR CSR

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1 Q I am going to show you several items, Government
2 Exhibit 6002, which is a stipulation in evidence, as well as
3 the underlying exhibits in that stipulation, which are
4 Government Exhibits 1000, 1001, 1001-A, 1002, 1003, 1004,
5 1007-A and 1007-B, 1011, and 1012.

6 MS. NASH: May I approach, Judge?

7 THE COURT: Yes.

8 Q Can you look at Government Exhibit 1000, 1001 and 1001-A,
9 1002, 1003, 1004, 1007-A and B, 1010 and 1012 -- I'm
10 sorry -- 1011 and 1012 and tell us whether you have seen and
11 reviewed those records before?

12 A I have.

13 And they are all telephone records, which include
14 actual telephone bills with call details itemized and also,
15 generally speaking, any calls made with these phone numbers,
16 incoming, outgoing, subscriber information.

17 Q Just explain what you mean when you say incoming,
18 outgoing?

19 A Basically, any contact that the telephone number has,
20 phones made out or telephone calls received.

21 Q Okay. Does each exhibit contain the telephone calls that
22 came in or were placed by the particular telephone number in
23 each exhibit?

24 A Yes, incoming and outgoing calls, basically date, time,
25 duration.

GR OCR CM CRR CSR

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1 Q I will leave those with you in case you need to refer to
2 them.

3 A Okay.

4 Q In conjunction with your analysis of the phone records
5 contained in the exhibits before you, did you review other
6 documents as well and other information?

7 A Yes.

8 I reviewed telephone bills, trial testimony and all
9 sorts of prison emails sent and phone records.

10 Q Showing you Government Exhibit 1009-A in evidence.

11 Can you see that?

12 A Yes.

13 Q Are these records that you reviewed in conjunction with
14 your analysis of the phone records?

15 A Yes.

16 This is actually -- this was taken from a cellphone
17 that was seized after an arrest and this was all the
18 information contained on the memory card of the cellular phone
19 in the phone's address book.

20 THE COURT: Let me stop you.

21 1009-A is not part of Exhibit 6002, correct?

22 MS. NASH: Correct, Judge.

23 But this was an exhibit that was introduced in
24 evidence through Agent Adam and it is the contents of the
25 cellular phone address book of Anthony Russo.

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1 THE COURT: No. I just want to know, is it part
2 of --

3 MS. NASH: I'm sorry.

4 THE COURT: I don't have it on my list as part of
5 this list of exhibits.

6 MS. NASH: Correct

7 EXAMINATION CONTINUES

8 BY MS. NASH:

9 Q Is this information something you reviewed in conjunction
10 with the exhibits that contain phone records that are the
11 subject of Government Exhibit -- of government stipulation
12 6002?

13 A Yes, it is.

14 Q Just once again, to be clear, what type of information is
15 contained in 1009-A?

16 A These are contacts, name and phone numbers, that were
17 stored in a cellular phone address book that was seized after
18 an arrest.

19 Q I'm sorry. Whose cellular phonebook was it?

20 A Anthony Russo slash Maritza Medina.

21 Q Did you also review what's in evidence as Government
22 Exhibit 1010-A in conjunction with your analysis of the phone
23 records that are referenced in government stipulation 6002?

24 A I did.

25 And this is the same thing. This was a telephone
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1 that was seized from Francis Guerra and it was all the
2 contacts in his cellular phone address book.

3 Q Showing you the second to last page of Government
4 Exhibit -- I'm sorry -- the last page of Government
5 Exhibit 912, which are in evidence as prison visitor records
6 for Joseph Monteleone.

7 Are these also records that you reviewed in
8 conjunction with your analysis of phone records?

9 A Yes, they are.

10 Q Showing you Government Exhibit 907, which are in evidence
11 as prison records for Alphonse Persico.

12 Did you review these records as well in conjunction
13 with your analysis of phone records?

14 A Yes, I did.

15 MS. NASH: Just one moment.

16 (Pause.)

17 Q Showing you Government Exhibit 906 and specifically an
18 email from October 30, 2009.

19 These are in evidence as the emails between John
20 Pappa and Francis Guerra obtained by the Bureau of Prisons, or
21 maintained by the Bureau of Prisons, I should say.

22 Did you review these as well in conjunction with
23 your analysis of phone records?

24 A Yes, I did.

25 MS. NASH: May I approach, Judge?

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1 THE COURT: Yes, you may.

2 Q Actually, well, yes.

3 Showing you Government Exhibit 1013-B.

4 Do you recognize that?

5 A I do.

6 Q What is Government Exhibit 1013-B?

7 A It is a chart I created showing phone contacts between
8 various phone numbers, number of calls, call direction and the
9 date range those calls took place.

10 Q What do you mean by call direction?

11 A Who made the call and who received the call.

12 Q Is the information contained in that chart based in part
13 on the exhibits that are contained in government stipulation
14 6002?

15 A They are.

16 Q In addition, is the information contained in that chart
17 based in part on the other documents and information that you
18 have testified about before?

19 A They are.

20 Q Does the information contained in this chart accurately
21 reflect the -- and accurately summarize the information
22 contained in the exhibits in stipulation 6002, as well as the
23 other exhibits and information that we have discussed?

24 A Yes.

25 MS. NASH: Judge, the government moves to admit
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1 Exhibit 1013-B as a summary chart pursuant to Rule 1006.

2 MR. McMAHON: No objection.

3 THE COURT: Received.

4 (Marked.)

5 Q Just before I publish this chart, if I could show you
6 page five of Government Exhibit 907, which is already in
7 evidence as Alphonse Persico's prison records.

8 Let me ask you this.

9 I am having trouble finding the page number.

10 Did you review a prison, an application for -- to
11 visit Alphonse Persico in Government Exhibit 907?

12 A Yes.

13 Q Who was that application made by?

14 A I would have to see it to recall.

15 Q Okay. Do you recall -- well --

16 A I know I reviewed it but I'd have to see it.

17 Q Give me one moment. I'm sorry.

18 A Yes.

19 (Pause.)

20 MS. NASH: I apologize.

21 (Pause continues.)

22 Q Showing you Exhibit 57. I apologize for that.

23 THE COURT: 57?

24 MS. NASH: Yes. It is Exhibit 907, page 57.

25 THE COURT: All right.

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1 Q Did you review this document in conjunction with
2 preparing your chart, Exhibit 1013-B?

3 A I did.

4 Q Is this an application to visit Alphonse Persico?

5 A It is.

6 Q Who filled out this application?

7 A Michael Persico.

8 Q What phone number did he list?

9 A (917) 567-8741.

10 Q Showing you Exhibit 1010-A, the report of the address
11 book contained in the phone seized from Francis Guerra.

12 Can you tell us what the phone number was?

13 A Sure.

14 It's (917) 757-2359.

15 MS. NASH: May I now publish the chart, Judge, or at
16 least a part of it?

17 THE COURT: Yes.

18 Q Showing you now the first two lines of Government
19 Exhibit 1013-B.

20 Can you explain the information that is reflected in
21 the first two rows of your chart?

22 A Sure.

23 The first row is contact between a number known to
24 belong to Michael Persico and Francis Guerra for the date
25 range of June 2, 2008 through April 20, 2009, and there were

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1 33 calls from Michael Persico to Francis Guerra.

2 And the second line is telephone calls from Francis
3 Guerra to Michael Persico for the same time period,
4 June 2, 2008, through April 20, 2009, and there were 81
5 contacts.

6 Q Before I move on to another portion of your chart, can
7 you please just look at Government Exhibit 1002 and 1003 that
8 you have before you?

9 A Sure.

10 Q Just tell us what, generally speaking, those records
11 contain, or those exhibits contain?

12 A Sure.

13 1002 are telephone records for telephone number
14 (347) 231-5175 subscribed to by Maritza Medina for the time
15 period of August 16, 2010 through October 4, 2010.

16 And Government Exhibit 1003 are call record details,
17 phone calls for the time period of August 20, 2009 through
18 July 20, 2010 for telephone number (347) 288-9628 subscribed
19 to by Maritza Medina.

20 (Continued on next page.)

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1 THE COURT: May I stop you and have counsel approach
2 the bench?

3 (Side bar.)
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1 (In open court.)

2 EXAMINATION CONTINUES

3 BY MS. NASH:

4 Q Can you explain in greater detail the methodology you
5 used to prepare this chart?

6 A Sure.

7 I reviewed telephone records and then I ran various
8 reports showing contacts between certain telephone numbers. I
9 reviewed --

10 THE COURT: No. Let's talk about the lines that you
11 have already testified to.

12 THE WITNESS: Okay.

13 So I reviewed telephone records belonging to
14 (917) 567-8741, which is subscribed to Romantique and used by
15 Michael Persico. I did the same thing for (917) 757-2359.

16 THE COURT: Where did you get the information?

17 THE WITNESS: The information came through various
18 means. It was actual phone records. It was through pen
19 register data.

20 THE COURT: What do you mean by actual phone
21 records?

22 THE WITNESS: We had some actual printouts the phone
23 company sent us. We had them uploaded electronically to our
24 system. I reviewed them that way. And then I actually
25 reviewed them sent from the phone company to make sure that

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1 that information sent to us belonged to those phone numbers.

2 Q To be clear, with respect to the phone number for
3 Romantique, did the -- or subscribed to by Romantique, did
4 the -- through a subpoena, did you obtain phone records for
5 that phone number indicating incoming and outgoing calls for
6 (917) 567-8741?

7 A No.

8 I believe that one was from prison visitor logs.
9 That's how we attributed that phone number to Michael Persico.

10 Q I understand.

11 But with -- so you are saying that with respect to
12 the phone number itself, the way you determined the user was
13 to look at the prison record and the individual who listed
14 that phone number on the prison record.

15 Do I have that right?

16 A Right.

17 We know that phone number is subscribed to by
18 Romantique as the actual subscriber. We know that Michael
19 Persico used it through the prison log.

20 Q Through the prison log?

21 A Through the prison records that he filled out, right.

22 Q With respect to the subscriber information, did you
23 obtain that through information provided to you by -- provided
24 to the FBI by the phone company?

25 A Yes.

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1 Q The information provided by the phone company, is it
2 that -- is it that information that contained incoming and
3 outgoing phone calls for telephone number (917) 567-8741?

4 A I believe so, yes.

5 Q Similarly, for telephone number (917) 757-2359, were you
6 able to determine who used that phone number?

7 A Yes.

8 Q Showing you Exhibit 1010, is that one of the ways in
9 which you were able to determine who used phone number
10 (917) 757-2359?

11 A Yes.

12 Q Just for the record, remind us, Government Exhibit 1010-A
13 is what?

14 A That is a printout of the contact information on that
15 phone number that was seized after the arrest of Francis
16 Guerra. The telephone was in his possession at the time of
17 his arrest.

18 Q Other than the telephone and the contents of his address
19 book, did the FBI obtain through the phone company incoming
20 and outgoing calls that were placed or received by phone
21 number (917) 757-2359?

22 A Yes.

23 Q So now once you reviewed the records that you obtained
24 from the phone company containing incoming and outgoing calls,
25 and reviewed documents such as the prison records or the

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1 address book, what did you do in order to create the chart
2 that reflects the number of contacts between two phone
3 numbers?

4 A I simply ran a report. I just inputted the two phone
5 numbers I was interested in and ran a report and it gave me
6 the printout. Then I just double-checked to make sure that
7 the information was correct.

8 Q When you say run a report, what happens in the process of
9 running that report?

10 What information is distilled at the end of that
11 process?

12 A Well, it is just a database that I use and I input the
13 telephone number and it just prints you out a sheet of paper
14 that shows you the contacts, the date, duration, incoming,
15 outgoing calls, how long the call lasted and the number of
16 contacts.

17 Q So the report that is generated through that process
18 would show for the phone numbers the number of times within a
19 particular time period that they were in contact?

20 A Exactly.

21 (Continued on next page.)
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1 BY MS. NASH:

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3 Q And how were you able to determine the direction of the
4 phone number, whether or not the Michael Persico subscribed to
5 by Romantique called to Francis Guerra and vice versa?

6 A If it's an incoming call to the first number, it will
7 say "in" before the phone number, and that's how I know it's
8 an incoming call.

9 Q With respect to the first line now --

10 A Yes.

11 Q -- what information does that reflect?

12 A It reflects --

13 Q To be clear, it's the first line of Exhibit 1013-B.

14 A So, the first phone number is 917-567-8741, which is
15 Romantique/Michael Persico. That telephone number called and
16 made an outgoing call to 917-757-2359, Francis Guerra,
17 thirty-three times for the time period of June 2, 2008 through
18 April 20, 2009.

19 And the second line shows the same two contacts in
20 different directions. So, the second line is calls made from
21 917-757-2359 to 917-567-8741 for the same time period, and
22 there were eighty-one calls in that direction.

23 Q Did you perform that similar process for the various
24 phone numbers contained in the exhibits referenced in
25 Government's Exhibit Stipulation 6002?

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1 A Yes.

2 Q I'll take you through that process for the remainder of
3 the chart?

4 If you'd look at the next two lines, first with
5 respect to Exhibits 1002 and 1003, which are referenced in
6 Stipulation 6002. What do Exhibits 1002 and 1003 contain.

7 A 1002 reflects call records for 347-231-5175, subscribed
8 to by Maritza Medina for the time period August 6, 2010
9 through October 4, 2010.

10 And Government's Exhibit 1003 provides also call
11 details for time period of August 20, 2009 through July 20,
12 2010 for Telephone Number 347 --

13 THE COURT: Don't talk so fast.

14 THE WITNESS: Sorry.

15 A -- for Telephone Number 347-288-9628 subscribed to by
16 Maritza Medina.

17 Q To back you up for a second, now. Do those two
18 exhibits, 1003 and 1003, contain phone records obtained by the
19 FBI from the telephone company?

20 A Yes.

21 Q And do they contain incoming and outgoing calls placed by
22 and received by those two numbers in the manner that you have
23 previously described?

24 A Yes, they do.

25 Q Who is Maritza Medina?

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1 A She, I believe, is Anthony Russo's wife or common-law
2 wife.

3 Q In conjunction with your analysis, in order to determine
4 who is using the phone numbers, did you review portions of
5 Exhibit 906, which are e-mails between John Pappa and Francis
6 Guerra?

7 A I did.

8 Q I'm showing you, before we proceed with the chart, an
9 e-mail dated October 30, 2009 at 2:06 p.m. from Government's
10 Exhibit 906. Can you identify the phone number associated
11 with the individual listed as Moos in this e-mail?

12 A 347-288-9628.

13 Q Now, going back to your Chart 1013-B. Can you explain
14 the information contained in the second two lines of your
15 chart?

16 A It's the same thing. It's showing contact between
17 917-567-8741 to Telephone Number 347-288-9628. So, the first
18 telephone number listed on the left made the telephone calls
19 to the second phone number, and there were three calls for the
20 date range of January 6, 2009 through April 16, 2009.

21 And then the line under that shows contact for the
22 same two phone numbers, except on the left, you have the --
23 the telephone number making the call is 347-288-9628, and it's
24 making the call to Telephone Number 917-567-8741, and there
25 were eleven calls from January 6, 2009 through April 16, 2009.

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1 Q And if you could look now at Exhibit 1004, which you have
2 as one of the underlying exhibits in the Stipulation 6002?

3 A Yes.

4 Q What does Exhibit 1004 contain?

5 A It's a call detail record, telephone records for
6 Telephone Number 732-673-4274, subscribed to by Ultimate
7 Seafood Service, Inc., and that's for the time period of
8 September 10, 2009 through December 24, 2010.

9 Q Who owns Ultimate Seafood Service, Inc.?

10 A Anthony Stropoli.

11 Q Again, when we're talking about the phone records in
12 Exhibit 1004, are these incoming and outgoing phone calls that
13 the FBI received from the phone company?

14 A Yes.

15 Q With respect to that phone number, did you perform the
16 same type of analysis when you compared to it certain of the
17 other phone numbers in the exhibits contained in 6002?

18 A Yes.

19 Q If you look at the bottom two lines of your chart, can
20 you explain the information contained in those last two lines?

21 A Sure. On the left, you have calls made from Telephone
22 Number 567-8741, which is Romantique/Michael Persico to
23 Telephone Number 732-673-4274, belonging to Ultimate Seafood,
24 Inc., Anthony Stropoli. And there were eight calls during the
25 time period of January 29, 2009 through April 14, 2009.

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1 And then the line under that shows telephone calls
2 made from 732-673-4274, which is Ultimate Seafood,
3 Inc./Anthony Stropoli to Michael Persico at 917-567-8741. And
4 there were seven calls for the time period of January 29, 2009
5 through April 14, 2009.

6 Q And if we look now at the first three lines of your chart
7 -- excuse me. I have turned now to page two of Government's
8 Exhibit 1013-B, and if we look at the first three lines of
9 your chart, are these phone numbers that we have previously
10 discussed and identified with respect to the exhibits in
11 Stipulation 6002?

12 A Yes.

13 Q And, again, are these phone records obtained by the FBI
14 that show incoming and outgoing phone calls for these
15 telephone numbers?

16 A Yes.

17 Q Did you perform the same analysis for each of these
18 telephone numbers in terms of determining the contacts between
19 them?

20 A Yes.

21 Q Can you explain the information contained in the first
22 -- I guess we can start with the first three rows?

23 A Okay. So, the first line shows contact between Telephone
24 Number 917-757-2359 to 347-288-9628 for the time period of
25 August 20, 2009 through July 26, 2010. And there were 1339
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1 calls made from the telephone number on the left to the
2 telephone number on the right.

3 And the second line shows calls made from
4 347-288-9628 to 917-757-2359 for the time period of August 20,
5 2009 through July 26, 2010. And there were 2317 calls.

6 The third line, phone calls made from Telephone
7 Number 917-757-2359 to Telephone Number 347-231-5175 for the
8 time period of July 21, 2010 through August 30, 2010. And
9 there were 142 calls made in that direction.

10 Q Just to refresh everyone's recollection: The telephone
11 number that you indicated as used by Francis Guerra is the
12 telephone number listed on Exhibit 1010-A as the phone number
13 associated with the phone seized from him at the time of his
14 arrest?

15 A Correct.

16 Q If you look now at the fourth, fifth and sixth lines. Is
17 that the same telephone number we previously reviewed for
18 Ultimate Seafood, Inc. owned by Anthony Stropoli?

19 A Yes, it is.

20 Q Did you perform an analysis with respect to that number
21 and the phone number subscribed to by Maritza Medina, Anthony
22 Russo's wife?

23 A I did.

24 Q Can you just briefly summarize the information contained
25 in the second -- I'm sorry -- on the fourth, fifth and sixth
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1 lines of your chart?

2 A Sure. It's how many calls were made from the phone
3 number on the left, which is 732-673-4274, it's Ultimate
4 Seafood, Inc., Anthony Stropoli, to 917-757-2359, which is
5 Francis Guerra. And there were 94 calls made in that
6 direction for the time period of August 21, 2009 through
7 January 20, 2011.

8 And then the line under that shows call direction
9 from 732-673-4274, once again Ultimate Seafood, Inc., Anthony
10 Stropoli, to 347-288-9628, which is Anthony Russo/Maritza
11 Medina for the time period of September 10, 2009 through
12 July 19, 2010. And there were 242 calls made in that
13 direction.

14 The line under that shows calls made from, once
15 again, Ultimate Seafood, Inc., Anthony Stropoli, at
16 732-673-4274 to Anthony Russo, Maritza Medina at 347-231-5175.
17 And it was 69 calls made between July 21, 2010 and September
18 2, 2010.

19 Q Before we review now the last line of page two of Exhibit
20 1013-B, can you look at Government's Exhibit 1012 that you
21 have --

22 A Yes.

23 Q -- and just explain for the jury what information is
24 contained in Exhibit 1012?

25 A Sure. This is an actual phone bill for Telephone Number
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1 914-246-9726, and the telephone bill covers the dates of
2 May 16, 1991 to July 31, 1992, and it is subscribed to by
3 Michael Persico.

4 Q In addition to the bill, do you have records reflecting
5 incoming and outgoing telephone calls for Telephone Number
6 914-246-9727?

7 A Yes, I do. That's also in here.

8 Q Is that also in Exhibit 1012?

9 A Yes.

10 Q I'm sorry if you said this already, but who is the
11 subscriber or who is the bill to for Phone Number
12 914-246-9726?

13 A Michael Persico.

14 Q Did you take the incoming and outgoing phone calls
15 reflected in the records contained in Exhibit 1012 and compare
16 them to other phone numbers that you have incoming and
17 outgoing phone call information for?

18 A Yes, I did.

19 Q Let me show you again Government's Exhibit 912 in
20 evidence, which is the prison records or the visiting records
21 for Joseph Monteleone. And can you indicate the phone number
22 that is listed for Anna Sottile?

23 A Sure. It's 718-996-8358.

24 THE COURT: And that is exhibit number?

25 MS. NASH: This is 912.

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1 THE COURT: 912. Thank you.

2 Q Can you also look at Government's Exhibit 1011, and tell
3 us what Government's Exhibit 1011 contains?

4 A It's a telephone bill with call detail billed to Anna
5 Sottile.

6 Q For what phone number?

7 A 718-996-8358.

8 Q What time period do the telephone records cover for
9 Exhibit 1011?

10 A February 3, 1992 through March 30, 1992.

11 Q So, looking at the last line of your chart, can you
12 explain the information contained in that row. And to be
13 clear for the record, we're still on page two of Exhibit
14 1013-B.

15 A Can you move it up a little bit?

16 Q I'm sorry.

17 A That's okay.

18 Q There you go.

19 A That is telephone calls made from 914-246-9726, belonging
20 to Michael Persico, to Telephone Number 718-996-8358, which is
21 listed as Anna Sottile/Joseph Monteleone. And there were six
22 calls made, Michael Persico to that phone number, for the time
23 period of December 31, 1991 to May 17, 1992.

24 Q Can you look now at Government's Exhibit 1007-A and B,
25 and describe for the jury the information contained in those
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1 exhibits?

2 A Sure. They are call telephone records, including billing
3 records and subscriber information, for Telephone Number
4 718-875-3955, which is subscribed to by Elite Auto Body and
5 Eric Curcio, and that's for the time period of November 4,
6 1993 through April 21, 1995.

7 Q And I'm showing you a copy of Exhibit 1007-B.

8 Is that the billing record that you were just
9 referring to --

10 A Yes.

11 Q -- listed to Elite Auto Body, Inc., Eric Curcio?

12 A Correct.

13 Q And 1007-A, what information does that contain?

14 A That is the actual printout, showing call direction and
15 telephone calls made to that phone number.

16 Q So, 1007-A are the incoming and outgoing phone calls for
17 the phone number registered to Eric Curcio?

18 A Correct.

19 Q And once again, that phone number is what? The phone
20 number for Eric Curcio or Elite Auto Body is what?

21 A 718-875-3955.

22 Q I'm going to show you page three of Government's Exhibit
23 907, once again the prison records for Alphonse Persico.

24 Did you review this document among others in
25 preparing this telephone chart.

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1 A I did.

2 Q And can you indicate who is listed as the person applying
3 to visit Alphonse Persico?

4 A Joyce Persico.

5 Q What phone number does she list?

6 A 718-745-8345.

7 Q Referring back now to your chart, 1013-B, the first line
8 of page three. Can you just indicate the information that is
9 provided there?

10 A Sure. It just shows that the telephone number subscribed
11 to by Eric Curcio made one phone call to Joyce Persico at
12 718-745-8345 on August 18, 1994.

13 Q Now, I'm moving to the second line of page three of
14 Government's Exhibit 1013. Before I have you explain the
15 information there, if I can direct your attention to
16 Government's Exhibit 907, Alphonse Persico's prison records,
17 pages 24 and 25. Are these records that you reviewed in
18 conjunction with the preparation of this chart?

19 A Yes.

20 Q Who is listed on page 24 of Government's Exhibit 907 as
21 applying to visit Alphonse Persico?

22 A Michael Sessa.

23 Q And turning now to page 25 of Government's Exhibit 907.
24 What telephone number did Michael Sessa list?

25 A 718-356-0208.

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1 Q Can you now indicate the information that is contained in
2 the second row of page three of your summary chart, Exhibit
3 1013-B?

4 A Sure. That shows three telephone calls were made from
5 Michael Sessa at 718-357-0208 to Michael Persico at Telephone
6 Number 914-246-9726 between February 29, 1992 and June 10,
7 1992. There were three calls.

8 Q I'm going to direct your attention now to Government's
9 Exhibit 1010-A. Again, it is the report of the address book
10 contained in Francis Guerra's phone?

11 A Yes.

12 Q Turning now to page 17. Can you please read the entry at
13 line 202?

14 A Sure. It listed as Smiley, and the telephone number is
15 1-718-312-9032.

16 Q Did you compare that number or perform an analysis with
17 respect to that number and the incoming and outgoing telephone
18 calls that you have for Francis Guerra's phone, 917-757-2359?

19 A Yes, I did.

20 Q Can you indicate, in the second two lines of your chart,
21 page three, Exhibit 1013-B, what information is reflected in
22 those rows?

23 A Sure. It shows the number of telephone calls made from
24 Francis Guerra to Michael Sessa for the time period of
25 September 25, 2009 through December 22, 2010. There were ten
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1 calls made in that direction.

2 The line under that shows calls made from Michael
3 Sessa to Francis Guerra for the same time period. And there
4 were 28 calls in that direction.

5 Q Going back now to Exhibit 1010-A, the report containing
6 the information in Francis Guerra's cell phone address book.
7 I'm going to direct your attention to page two of that
8 exhibit. Can you please indicate who is listed at line nine
9 of page two of Exhibit 1010-A?

10 A Ambrose. And the telephone number is 1-646-400-9696.

11 Q Did you perform an analysis with respect to that phone
12 number and the phone number used by Francis Guerra?

13 A Yes.

14 Q Looking at page three of Exhibit 1013-B, your summary
15 chart. Can you explain what information is reflected in the
16 fifth and sixth rows?

17 A Sure. It's contact made from Francis Guerra to Ambrose
18 for the time period of September 10, 2009 through February 9,
19 2011. There were 217 calls in that direction.

20 The following line shows calls made from
21 646-400-9696, which is Ambrose, to Francis Guerra for the time
22 period of September 10, 2009 through February 9, 2011. And
23 there were 150 telephone calls made in that direction.

24 Q Before we proceed to the next rows of your chart, I'm
25 going to direct your attention now to Exhibit 1009-A. Is that
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1 the report of the address book contained in Anthony Russo's
2 phones?

3 A Yes.

4 Q And directing your attention to page fourteen of Exhibit
5 1009-A -- sorry -- page five, line 26 of 1009-A.

6 A I'm sorry. What line did you say?

7 Q Page five -- I'm sorry. I have not done it yet?

8 Line 26 of page five of 1009-A. Can you indicate
9 who is listed in the address book of Anthony Russo's phone.

10 A It's listed as "Jew," and the Mobile Telephone Number is
11 917-538-1365.

12 Q If you go to the bottom two rows of your chart of page
13 three; again, Exhibit 1013-A. Can you indicate what
14 information is provided in that -- in those rows?

15 A Can you move it up a little?

16 Q Sorry.

17 A There you go.

18 The first line shows calls made from Francis Guerra
19 to Scott Reback, "Jew," for the time period of August 20,
20 2009 through January 6, 2011. There were 176 telephone calls.

21 The line under that shows telephone calls made from
22 917-538-1365, which is Scott Reback/Jew to Francis Guerra for
23 the same time period. And there were 137 phone calls.

24 Q Again, for the record: In order to determine the number
25 of calls between these two phone numbers, did you review the
ANTHONY M. MANCUSO, CSR OFFICIAL COURT REPORTER

1 incoming and outgoing calls that you have for Francis Guerra's
2 phone number, 917-757-2359?

3 A Yes.

4 Q And did you analyze how many incoming and outgoing calls
5 he had to and from the number 917-538-1365?

6 A Yes.

7 Q Going back to Exhibit 1010-A, which is the address book
8 in Francis Guerra's cell phone. I'm going to direct your
9 attention to page fourteen. Can you identify who is listed at
10 line 170 of page fourteen of Exhibit 1010-A?

11 A Pat Avena, with the home telephone number list of
12 1-718-234-5580.

13 Q Now, if you look at your chart, the third row from the
14 bottom. Can you indicate the information that is contained in
15 that row? And again, we're on page three of 1013-B.

16 A It shows that four telephone calls were made from
17 917-757-2359, which is Francis Guerra, to 718-234-5580, which
18 is Pat Avena, for the time period of June 9, 2010 through
19 December 6, 2010.

20 Q Going back now to Exhibit 1010-A. Once again, the report
21 for the address books in Francis Guerra's cell phones. I'm
22 going to direct your attention to page 11. Can you indicate
23 who is listed at entry line 121?

24 A Suzzie Girl Little, and it's Telephone Number
25 718-219-4572.

ANTHONY M. MANCUSO, CSR OFFICIAL COURT REPORTER

1 Q I'm also going to direct your attention, in the same
2 Exhibit 1010-A, to page 17. Can you please identify who is
3 listed at line 210 on page 17 of Exhibit 1010-A?

4 A Suzzie Girl, and there are three telephone numbers
5 listed. The first one is a mobile listed at 1-917-567-0028,
6 followed by a home telephone number listed as 718-680-5172,
7 followed by a work number, which is 718-708-0923.

8 Q Looking at page four, the last page of your chart,
9 Exhibit 1013-B. Can you summarize the information that is
10 provided here?

11 A The first line shows calls made from Francis Guerra to
12 Suzzie Girl for the time period of August 20, 2009 through
13 December 17, 2009. There were eight telephone calls.

14 Second line shows calls made from Francis Guerra to
15 another one of Suzzie Girl's telephone numbers, which was
16 718-680-5072, for the time period of August 20, 2009 through
17 September 22, 2009.

18 Q To be clear: I'm sorry to stop you, but these phone
19 numbers that you have listed here for Suzzie Girl are the
20 phone numbers listed in Government's Exhibit 1010-A; is that
21 correct?

22 A Yes.

23 And there were eight telephone calls for that second
24 line.

25 The third line shows calls made from 718-680-5072,
ANTHONY M. MANCUSO, CSR OFFICIAL COURT REPORTER

1 which is Suzzie Girl, to Francis Guerra. Five calls were made
2 for the time period of August 20, 2009 through September 22,
3 2009.

4 Following line shows calls made from 718-219-4572,
5 which is listed in the address book as Suzzie Girl Little to
6 Francis Guerra. There were two calls made on January 20,
7 2011.

8 Line under that shows calls made from Francis Guerra
9 to Suzzie Girl at 718-708-0923. There were 19 telephone calls
10 from August 27, 2009 through December 18, 2009.

11 And the last line shows calls made from Suzzie Girl,
12 718-708-0923, to Francis Guerra for the time period of
13 August 27, 2009 through December 18, 2009. There were 92
14 calls in that direction.

15 MS. NASH: Thank you. Just a moment.

16 (Pause.)

17 MS. NASH: Nothing further from the government, your
18 Honor.

19 THE COURT: Cross-examination.

20 MR. McMAHON: Yes, your Honor.

21 CROSS-EXAMINATION

22 BY MR. McMAHON:

23 Q Ma'am, are you an agent?

24 A I am not.

25 Q So, you are a civilian employee of the FBI?

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1 A Correct.

2 Q What is your educational background?

3 A I have a bachelor's degree in criminal justice from John
4 Jay College.

5 Q Did you go from John Jay to the FBI?

6 A I did.

7 Q What sort of training have you had in intelligence
8 analysis?

9 A I had about thirteen weeks in Quantico, Virginia, various
10 types of training.

11 Q Now, the information that's on this report, the summary
12 report, which is 1013-B, I think you said you gathered some
13 data and you put it into a computer, and out spits the report?
14 That's the long and short of it?

15 A No. Some of the telephone numbers we had pen registers
16 up on. So, that number is in our database. I don't input
17 anything. I just run reports with what's in there already.

18 MR. McMAHON: Can I see the stipulation?

19 Q Do you have the stipulation in front of you? I think
20 it's 6002.

21 A 6002?

22 Q Yes. Let me take a look at it for a second?

23 (Pause.)

24 MR. McMAHON: Is this in evidence?

25 MS. NASH: Yes.

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1 Q Would you please show me on that document where it says
2 that you used pen register information?

3 A It doesn't. I just know I used pen register information
4 for some of it, not for all of it.

5 MR. McMAHON: Judge, can we approach sidebar?

6 THE COURT: Yes.

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8 (Continued on next page.)

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ANTHONY M. MANCUSO, CSR OFFICIAL COURT REPORTER

CROSS-EXAMINATION CONTINUED

BY MR. McMAHON:

Q So, ma'am, your chart also includes -- it also includes
pen register data; is that correct?

A Yes.

Q Now, when you say on this chart contacts, what do you do
mean?

A Telephone calls that were made from each phone number.

Q Okay. Now, if there was a call was a one second call or
a voicemail or something like that, that would also be listed?

A It would only be listed if the call was answered.

Q So if it was answered by voicemail it would be listed?

A I believe so, yes.

Q And this chart you have done -- you have a subscriber
user. The subscriber information, I guess, comes from the

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1 phone company?

2 A Correct.

3 Q In terms of user, that you would gather from other data,
4 such as the prisons records and stuff you talked about?

5 A Yes.

6 Q But you don't know as to these particular calls who the
7 user was at any given call; is that correct?

8 A Right.

9 Q You are saying that with respect to this phone, that
10 there is some evidence that the user was the person that you
11 listed?

12 A Exactly.

13 Q That's where the user is different from the subscriber?

14 A Correct.

15 Q Okay. Now -- and I see that there are some other things
16 in here that have to have come from agent information, such as
17 on page four -- I think it's page three, I'm sorry, Scott
18 Rheback (ph) Jew, do you see that line?

19 A Correct.

20 Q One hundred seventy-six calls from Frank Guerra to him?

21 A Yes.

22 Q Where do you get the Jew from; is that in the phone book
23 or something?

24 A That's how it was saved in the telephone book that -- the
25 phone that we seized for the phone of Frank Guerra.

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1 Q Okay. Now, you said that was seized from Frank Guerra?

2 A Correct, at the time of his arrest. That is the 917
3 757-2359 telephone.

4 Q Were you at his apartment when he was arrested?

5 A I was not.

6 Q So I gather somebody told you that this phone came from
7 Frank Guerra when he was arrested?

8 A Yes, it was entered into evidence and then I received the
9 printout from --

10 Q From the evidence log?

11 A From whatever was printed out. Whoever --

12 Q The report?

13 A Correct.

14 Q Now, on this Scott Rhebock, you know, he is the owner of
15 the Nissan dealership where Frank worked, is that the
16 subscriber?

17 Do you know who the subscriber was?

18 Do you remember as you sit here today who that Scott
19 Rheback is?

20 A I believe Anthony Russo testified that he was known as
21 the Jew.

22 Q What I am asking is do you know that Scott Rheback is the
23 owner of the Nissan dealership where Frank worked?

24 A No, I don't know that.

25 Q You don't know what the subscriber specifically -- what

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1 the subscriber information for that 917 538-1365, you don't
2 know if that was paid by Nissan, by the dealership or by him?

3 A I have no way of knowing that, correct.

4 Q Oh, and lastly, it wasn't clear to me. On the number of
5 contacts did you actually count or did some machine count?

6 A It was -- a report was printed out that lists the number
7 of calls, with the exception of the older calls that I counted
8 myself from the phone records that went back to the 90s. Those
9 we do not have electronically.

10 Q All right. That's gone a little bit over my head here.

11 A Okay.

12 Q This 1013 B is this chart in evidence?

13 A Yes.

14 Q And the last column on the right is the number of
15 contacts?

16 A Yes.

17 Q And this deals with a certain timeframe in two phone
18 numbers?

19 A Yes.

20 Q And the number is 33; is that correct?

21 A Yes.

22 Q Now, my question is this actual document, it's a four
23 page -- this four page document, did some computer generate
24 this document or did you put -- withdrawn.

25 Did a computer generate this document?

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1 A No, I made this document from information that came from
2 a computer or from hard physical paper copy.

3 Q So if the phone records were old you actually counted the
4 contacts?

5 A Yes.

6 Q And you would have counted them, what, in the call detail
7 section?

8 A Yes.

9 Q So you would have counted each one?

10 A Only the old -- the two or three old phone bills that are
11 here, yes.

12 Q So the vast majority of the data has been generated by
13 the some database?

14 A After I entered the information that I was interested in
15 finding, yes.

16 Q Okay. So, for example, on 2009 information. Let's go to
17 a different -- the second line there. Now, the 81 calls
18 between Francis Guerra and Roman T/Michael Persico, that
19 number of 81 you didn't personally count --

20 A -- no --

21 Q A computer database told you there were 81 contacts?

22 A Correct.

23 Q And whose database is that that told you that
24 information?

25 A It's an outside database that we call, Penlink.

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1 Q P-E-N-L-I-N-K?

2 A Correct.

3 Q So somebody put some information into the Penlink and
4 Penlink sent you back a report with that number 81 on it?

5 A No. I take the information that is in our estimate, FBI
6 system, for this phone number. Let' say, 917 757-2359. That
7 gets downloaded to my computer, and then uploaded into the
8 Penlink database and then you can run all sorts of reports and
9 would have given you that number.

10 Q Okay. But when you say that you downloaded the number, I
11 understand when you say the phone number, but what information
12 do you convey to Penlink from which that computer comes up
13 with the number 81?

14 A Every, every, every, all the information --incoming,
15 outgoing call, date, time, duration, anything that we have
16 captured from the phone company.

17 THE COURT: One moment. You put that in Penlink?

18 THE WITNESS: In our system, yes, but it goes into
19 our system, not by me, through the phone company, or however
20 else they are -- depending on where they get it from.

21 Q This is a little hard to understand for us old timers.

22 A I understand.

23 Q You got the phone bills -- withdrawn.

24 You have pen register data. Somehow you have a list
25 of all calls that were made in the timeframe. For example, on

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1 line two, June 2 of 08 to April 20 of 09, you have a computer
2 that captures the number of every call in that timeframe made
3 between those two numbers.

4 A If there's a pen register. If you have a pen register
5 on a phone number, whoever authorizes -- whatever the company
6 -- Nextel or Sprint or whatever it is, they give that
7 information to someone else at the FBI. Whoever handles that,
8 not me, and it gets entered into our internal system. That is
9 a live feed, FBI. Live feed. Pen register is live. You get
10 calls as they happen. Maybe there's like a 12-hour delay.
11 Okay. Then I take that information and dump it into Penlink,
12 download it into Penlink and then I run my reports.

13 Q Got it, but meanwhile -- so all of the data that is here
14 is part of a vast array of numbers and calls and contacts, if
15 it is pen register gathered that is sitting in an FBI
16 computer?

17 A Originating from the telephone company, yes.

18 Q Yes. Made from the phone company pursuant to some pen
19 register application and then it's stored in the FBI computer?

20 A Yes.

21 Q Okay. And then you ask the computer to generate some of
22 that and you send it to Penlink or you send it all to Penlink?

23 A I send everything to Penlink, or you can also send
24 certain dates but normally we send everything.

25 Q And then the computer -- you tell them what kind of

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1 report you want and then they will send it back to you in this
2 format or the data will come back?

3 A It just comes on the screen and you can just print it out
4 instantly.

5 Q So you will ask it for this date, these two numbers, how
6 many contacts?

7 A Correct.

8 Q Is that the terminology used: contacts or completed
9 calls, or what is it?

10 A I think contacts is fair.

11 Q It has to be more than a minute, more than ten seconds,
12 anything like that or is it just contacts?

13 A Well, the call would have had to have been answered so --

14 Q Okay. All right. So then basically the data that is on
15 this chart is taken from this Penlink's computer which dealt
16 with the material that it got previously from the FBI computer
17 which it got from the phone company, correct?

18 A With the exception of the older records, yes.

19 Q Okay. Now, when they send this back to you, for example,
20 I don't know, maybe 15 your 20 columns here that you've asked
21 for, is there a specific report that comes from Penlink which
22 you then turn into this document which is in evidence?

23 In other words, is the 81 -- withdrawn.

24 Penlinks didn't do this four page document when they
25 gave you the data?

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1 A No.

2 Q When they gave you the data did you print it out?

3 A Sometimes I did, sometimes I didn't.

4 Q Did you do the data for this chart and do you have that
5 in your office?

6 A Somewhere I probably do, yes.

7 MR. McMAHON: Nothing further, Judge.

8 THE COURT: All right. Any questions for this
9 witness?

10 MS. NASH: No Judge.

11 THE COURT: You may step down. Thank you.

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GOVERNMENT
EXHIBIT
7003
10 CR 147 (DLI)

1869-6-11 09:21 AM Page 123 of 256
#: 4859

GOVERNMENT
EXHIBIT
3500-KO-7
10 CR 147 (SLT)

DATE 3-09-93DAY TuesdayWEATHER Clear - Cool

A PHYSICAL PHOTO ☒ SURVEILLANCE WAS CONDUCTED IN THE
VICINITY OF 6701 11TH Ave Brooklyn N.Y.
AT WHICH TIME THE FOLLOWING OBSERVATIONS WERE NOTED:

TIME	INITIALS	OBSERVATIONS
12:48P	KW	Photographic surveillance instituted at the above address with color roll #6192
12:50P	KW	Color photos 1, 2 & 3 depict H7V-790 N.Y. (an Oldsmobile Bravada) parked in front of 6701 11TH Ave Brooklyn N.Y.
12:51P	KW	Color photo #4 depicts 6701, 11TH Ave Luncheonette.
12:52P	KW	Color photos 5, 6 & 7 depict Joseph Monteleone Sr. (further noted as JMS) exiting 6701 11TH Ave walking towards H7V-790 N.Y.
1:02P	KW	Color photos 8 & 9 depict JMS entering H7V-790 N.Y.
1:15P	KW	Color photos 10, 11, 12 & 13 depict JMS talking w/a UWM on the sidewalk in front of 2002 W 6TH St. Brooklyn.
1:33P	KW	Color photo #14 depicts JMS exiting 196 Ave "S" Brooklyn N.Y.
		Color photos 15, 16, 17, 18, 19, 20, & 21 depict JMS talking w/UWM while standing on ^{the} Bridge on Coney Ave that crosses the Coney Island Creek.
2:24P	KW	Color photo #22 depicts UWM standing in the doorway of 196 Ave "S" Brooklyn.
2:25P	KW	Color photos 23 & 24 depict 2 UWM's in front of 196 Ave "S" Brooklyn.
2:26P	KW	Photographic surveillance terminated with color

PAGE 2 OF 2



1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X

4 UNITED STATES OF AMERICA, :

10-CR-147

5

-against-

United States Courthouse

6

: Brooklyn, New York

7

FRANCIS GUERRA,

8

Defendant.

9

: June 26, 2012
9:30 o'clock a.m.

10 - - - - - X

11 TRANSCRIPT OF TRIAL
12 BEFORE THE HONORABLE SANDRA L. TOWNES
13 UNITED STATES DISTRICT JUDGE, and a jury
14 ATTORNEYS FOR GOVERNMENT:

LORETTA E. LYNCH

14

UNITED STATES ATTORNEY

BY: NICOLE ARGENTIERI

15

ALLON LIFSHITZ

RACHEL NASH

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19

MATHEW J. MARI, ESQ

20

Court Reporter:

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24

Proceedings recorded by mechanical stenography,
transcript produced by CAT.

25

MARSHA DIAMOND, CSR
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F R E D S A N T O R O , having been first
duly sworn/affirmed, testified as follows:

THE COURT: Tell us your full name and spell it.

THE WITNESS: My name is Fred Santoro F-R-E-D
S-A-N-T-O-R-O.

DIRECT EXAMINATION

BY MS. ARGENTIERI:

Q Are you currently employed?

A No ma'am.

Q Directing your attention to the 1997, where did you work?

A I was a detective in the Brooklyn South Narcotics Major
Case Unit.

Q And is that a part of the New York City Police
Department?

A Yes, it is.

Q When did you join the New York City Police Department?

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1 A July 16, 1984.

2 Q You said that in 1997 your assignment was to the major
3 case unit?

4 A Yes, it was.

5 Q Can you explain to the jury, generally, what that is?

6 A Yes. We did long-term investigations into upper echelance
7 drug dealers and we also did traditional organized crime which
8 involved physial surveillance, electronic surveillance which
9 was wiretap, and undercover work.

10 Q In the course of your work for the Brooklyn Major Case
11 Unit, did you perform video surveillance of Anthony Russo?

12 A Yes, ma'am.

13 Q When, approximately, did you conduct that surveillance?

14 A Approximately 1997 in August.

15 MS. ARGENTIERI: Judge, may I approach?

16 THE COURT: Yes.

17 MS. ARGENTIERI: I am showing the witness Government
18 Exhibit 228 previously shown to the defense counsel (handing
19 to the witness).

20 Q Do you recognize that?

21 A Yes.

22 Q Have you reviewed it prior to today?

23 A Yes.

24 Q What is it?

25 A Copy of the video, the surveillance, that I conducted in

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1 1997.

2 Q And how do you know that's what it is?

3 A Because my initials are on it.

4 MS. ARGENTIERI: Government moves to admit
5 Government Exhibit 228.

6 MR. McMAHON: No objection.

7 THE COURT: Received.

8 (Exhibit 228 so marked).

9 MS. ARGENTIERI: May I publish it to the jury,
10 Judge?

11 THE COURT: Yes, you may.

12 Q Sir, before I start the video, where were you physically
13 located when you shot this video?

14 A I was in the back of a surveillance van on 11th Avenue
15 approximately between 67th and 68th Street in the County of
16 Kings, Brooklyn, New York.

17 Q And what was at that location?

18 A Romantique Limousines.

19 Q Sir, stopping the video for the record at eight seconds,
20 what's in this shot?

21 A You got Allie Boy Persico and Anthony Russo.

22 Q And there are two individuals in the photo, can you
23 identify the individual on the left?

24 A Yes. The individual on the left is Anthony Russo. He's
25 in a black jogging outfit with white and red stripes, and the

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1 person in front of him is Allie Boy Persico who is wearing a
2 white T-shirt with a logo on the back and sunglasses.

3 Q And to the right there looks like a neon sign, what is
4 that neon sign say?

5 A That says Romantique Limousine.

6 Q And was that the storefront?

7 A Yes.

8 Q So where was your car parked in relation to that
9 storefront?

10 A I was, approximately, I'd say maybe 20 feet parked on the
11 street.

12 MS. AREGNTIERI: If you can just play the video.

13 (Video playing).

14 Q Where do you see Allie Boy Persico and Anthony Russo go?

15 A They start to enter the location Romantique Limousine.

16 Q Approximately 35 seconds into the video what happens?

17 A Alley Boy Persico entered into the location.

18 Q To just -- we are moving just to before two minutes.

19 Right there, who did you see exit?

20 A Anthony Russo.

21 Q And then the individual in the doorway, do you recognize
22 that person?

23 A Yes, ma'am.

24 Q Who is that?

25 A Michael Persico. (Continued on next page)

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1 (Tape continues to play.)

2 EXAMINATION CONTINUES

3 BY MS. ARGENTIERI:

4 Q Are you are moving the camera here?

5 A Yes.

6 Q What were you able to observe?

7 A I observed all three individuals cross the street and
8 start to meet up across the street by a parking meter.

9 Q We are stopping the video at 2:31.

10 Do you see anyone that you recognize in the shot?

11 A Yes.

12 Q Who?

13 A Allie Boy Persico.

14 Q Can you indicate where for the jury you see Allie Boy
15 Persico?

16 A He's opposite where I'm sitting, he's opposite across the
17 street, and he's facing me.

18 Q Is he wearing a white T-shirt?

19 A Yes, he is.

20 Q All the way to the right?

21 A Yes.

22 (Tape plays.)

23 Q In this shot it looks like how many individuals -- well
24 just wait for it to clear up.

25 (Pause.)

GR OCR CM CRR CSR

1 Looking at this video at around three minutes, who
2 is there?

3 A Well, now the same three individuals, they hook back up.
4 It's Allie Boy Persico, Michael Persico and Anthony Russo.

5 Q Did you observe them?

6 A Yes, ma'am.

7 Q What did they appear to be doing?

8 A They appear to be having a conversation, or a
9 walk-and-talk, what we used to call it, from across the street
10 from where I'm sitting.

11 (Tape plays.)

12 Q Did they meet there for a couple of minutes?

13 A Yes, they did.

14 Q I am just going to fast forward from four minutes to
15 six minutes.

16 Are they still meeting across the street?

17 A Yes.

18 (Tape continues to play.)

19 Q I am going to fast forward to eight minutes.

20 What is the group still doing?

21 A They are still talking.

22 Q I am fast forwarding to approximately 9 minutes
23 30 seconds.

24 (Tape continues to play.)

25 At this point did they move on?

GR OCR CM CRR CSR

1 A Yes, ma'am.

2 (Tape plays.)

3 Q At approximately 10 minutes 30 seconds, what did you
4 observe them doing?

5 A I observed Anthony Russo get into a passenger seat of a
6 vehicle. Michael Russo got into -- actually, Anthony got into
7 the driver's seat, Michael got into the passenger seat, and
8 they drove off towards the higher numbers. Allie Boy has a
9 brief conversation with them and then he comes back across the
10 street.

11 At this point I believe they know that I'm out there
12 because Allie Boy starts to put on like a little show for the
13 camera. He starts skipping and laughing.

14 (Tape plays.)

15 Q Is that what you are talking about there?

16 A Yes.

17 Q That's approximately 11 minutes 20 seconds.

18 Where did Allie Boy go just there?

19 A He went back inside of Romantique Limousines.

20 Q At some point did he reappear?

21 A Yes, shortly thereafter.

22 Q I am just going to fast forward to shortly before
23 19 minutes.

24 (Tape continues.)

25 What does he appear he's doing right there at 19:20?

GR OCR CM CRR CSR

1 A He just stuck his head out. I think he was looking to
2 see if I was still out there.

3 (Tape continues.)

4 Q Later that day, did Anthony Russo and Michael Persico
5 return?

6 A I don't recall if they returned. I was out there for a
7 while. I don't recall if they came back.

8 Q I am fast forwarding to 34 minutes.

9 (Tape continues.)

10 Who is that in the frame?

11 A That's Anthony Russo and Michael Persico.

12 (Tape continues.)

13 Q Approximately how long was your entire surveillance?

14 A I stood out there approximately three to four hours. I
15 believe the reason why they pulled away on the first time was
16 because they wanted to see if I was going to follow them but I
17 remained at the location.

18 MS. ARGENTIERI: I have no further questions, Judge.

19 MR. McMAHON: No cross, Judge.

20 THE COURT: You may step down.

21 Thank you.

22 THE WITNESS: Have a nice day. Have a nice day.

23 (Witness excused.)

24

25

GR OCR CM CRR CSR

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 10-CR-00147(SLT)
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:
-against- : United States Courthouse
: Brooklyn, New York
:
:
: Thursday, June 21, 2012
FRANCIS GUERRA, : 9:30 a.m.
:
Defendant. :
:

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TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL
BEFORE THE HONORABLE SANDRA L. TOWNES
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: LORETTA E. LYNCH, ESQ.
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: NICOLE M. ARGENTIERI, ESQ.
RACHEL NASH, ESQ.
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Assistant United States Attorneys

For the Defendant: LAW OFFICE OF GERALD J. MCMAHON
67 Wall Street
New York, New York 10005
BY:GERALD J. MCMAHON, ESQ.

Victoria A. Torres Butler, CRR
Official Court Reporter

C. Wertenberger - Cross / McMahon

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16 **K E V I N L . W E V O D A U ,**

17 called by the Government, having been

18 first duly sworn, was examined and testified

19 as follows:

20

21 THE COURT: Please, be seated. Tell us your full
22 name and spell it.

23 THE WITNESS: My name is Kevin L. Wevodau,

24 W-E-V-O-D-A-U.

25 THE COURT: D-A-U?

K. L. Wevodau - Direct / Argentieri

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1 THE WITNESS: Yes.

2 THE COURT: Thank you.

3 MS. ARGENTIERI: May I enquire?

4 THE COURT: Yes, you may.

5 DIRECT EXAMINATION

6 BY MS. ARGENTIERI:

7 Q Sir, where are you employed?

8 A I'm a supervisory senior resident agent for the Federal
9 Bureau of Investigation in the Philadelphia division assigned
10 to the Scranton and resident agency.

11 Q And how long have you been a special agent with the
12 Federal Bureau of Investigation?

13 A Little over 28 years.

14 Q Directing your attention to October of 1994, what FBI
15 office were you assigned to?

16 A I was assigned to the special operations group within the
17 New York division.

18 Q That's the New York office?

19 A Yes.

20 Q And what squad specifically were you assigned to?

21 A S02.

22 Q And what were your responsibilities as a special agent
23 assigned to S02?

24 A Tasks would be submitted by case agents to the special
25 agent -- to the special operations branch. Assignments would

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1 be meted out from there by the coordinators tours to the
2 various squads. And our task as surveillance agents would be
3 to complete those missions, be they physical surveillance or
4 photographic surveillance.

5 Q And when you conducted a visual surveillance or
6 photographic surveillance, how -- did you have a practice with
7 regard to documenting it?

8 A We would be required to complete logs.

9 Q And when you created those logs, were you careful to be
10 fair and accurate?

11 A Yes.

12 Q As you sit here today, do you recall if you conducted a
13 surveillance on October 26th, 1994?

14 A Not specifically, no.

15 MS. ARGENTIERI: May I approach?

16 THE COURT: Yes.

17 MS. ARGENTIERI: Showing the witness what's marked
18 for identification as 3500 KW-1.

19 (Hanging.)

20 Q Sir, do you recognize that document?

21 A Yes, this would be a surveillance log, a photographic
22 surveillance log that I would have completed.

23 Q And on what date did you complete it?

24 A The log itself was completed on November 23, 1994, for a
25 surveillance done on October 26th, 1994.

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1 Q And at the time that you created this, were you careful
2 to be fair and accurate?

3 A Yes.

4 MS. ARGENTIERI: Judge, the Government moves to have
5 this witness refer to this log pursuant to 8035 during his
6 testimony.

7 THE COURT: Any objection?

8 MR. McMAHON: No, Judge.

9 THE COURT: All right. That request is granted.

10 MS. ARGENTIERI: I'm also going to show the witness
11 for identification Government's Exhibit s 212-A, B, and C.

12 (Hanging.)

13 Q Sir, do you recognize those photographs?

14 A These would be the three photographs that were taken as
15 depicted in my surveillance log from that date.

16 Q And how do you know that those are photographs you
17 specifically took?

18 A On the back I completed the indications that were S02
19 agent Kevin Wevodau, the date and the case agent that assigned
20 us to the matter and the file number for which they were
21 taken.

22 MS. ARGENTIERI: The Government moves to admit
23 212-A, B, and C.

24 MR. McMAHON: May I see them, Judge?

25 THE COURT: Yes.

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1 (Hanging.)

2 MR. McMAHON: No objection, Your Honor.

3 THE COURT: All right, I will receive Government's
4 Exhibits 212-A, B, and C.

5 (Government's Exhibits 212-A, B, and C were received
6 in evidence.)

7 (The above-referred to Exhibit was published to the
8 jury.)

9 Q Sir, on October 26th, 1994, where were you conducting
10 surveillance?

11 A The Gowanus Parking Field C, Third Avenue, between 30th
12 and 31st Street, in Brooklyn, New York.

13 Q And at what time did you initiate your surveillance that
14 day?

15 A 4:30 p.m.

16 Q And where were you when you initiated the surveillance?

17 A At the Gowanus Parking Field C, Third Avenue.

18 Q And did you take photographs that day?

19 A Yes.

20 Q At approximately what time did you take photographs?

21 A 5:02 p.m. on that date.

22 Q And did you describe what you observed as you took the
23 photographs in your log?

24 A Yes.

25 Q What did you observe at 5:02 p.m.?

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1 A An unknown white male walking west on 10th Street from
2 Bay Parkway and then I put in parentheses, "towards the
3 U-Haul."

4 Q And what time did you terminate surveillance that day?

5 A 9:00 o'clock p.m.

6 MS. ARGENTIERI: Judge, may I publish 212-A, B, and
7 C to the jury?

8 THE COURT: Yes.

9 MS. ARGENTIERI: Showing you first 212-A.

10 (The above-referred to Exhibit was published to the
11 jury.)

12 Q Is this one of the photographs you took that day?

13 A Yes.

14 Q And what does that photo show?

15 A That was the unknown white male.

16 MS. ARGENTIERI: Showing 212-B.

17 (The above-referred to Exhibit was published to the
18 jury.)

19 Q What does that show?

20 A It's another picture of the same unknown white male.

21 Q And in that photo what does the unidentified male appear
22 to be doing?

23 A Looking back at me.

24 MS. ARGENTIERI: Showing you Government's
25 Exhibit 212-C.

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1 (The above-referred to Exhibit was published to the
2 jury.)

3 Q Is that the same unidentified male?

4 A Yes.

5 Q And these are the three photos you took that day?

6 A Yes.

7 MS. ARGENTIERI: No further questions.

8 THE COURT: Any cross, Mr. McMahon?

9 MR. McMAHON: No, Your Honor.

10 THE COURT: You may step down, thank you.

11 THE WITNESS: Thank you.

12 (Witness excused.)

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GOVERNMENT
EXHIBIT
7007
10 CR 147 (DLI)

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 - - - - - X

4 UNITED STATES OF AMERICA, :

10-CR-147

5 -against-

United States Courthouse

6 : Brooklyn, New York

7 FRANCIS GUERRA,

8 Defendant.

9 : June 25, 2012
9:30 o'clock a.m.

10 - - - - - X

11 TRANSCRIPT OF TRIAL

BEFORE THE HONORABLE SANDRA L. TOWNES

12 UNITED STATES DISTRICT JUDGE, and a jury

13 ATTORNEYS FOR GOVERNMENT:

LORETTA E. LYNCH

14 UNITED STATES ATTORNEY

BY: NICOLE ARGENTIERI

15 ALLON LIFSHITZ

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16 Assistant United States Attorney

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24 Proceedings recorded by mechanical stenography,
25 transcript produced by CAT.

MARSHA DIAMOND, CSR
OFFICIAL COURT REPORTER

THE WITNESS: Jeffrey Young, J E F F R E Y,
Y O U N G.

THE COURT: Thank you.

DIRECT EXAMINATION

BY MS. ARGENTIERI:

Q Sir, what do you do for a living?

A I'm a retired New York City detective.

Q Prior to your current job, where were you employed?

A Prior to my -- I was employed by the New York City Police
Department.

Q What year did you join the New York City Police
Department?

A In 1981.

Q And what was your first assignment with the NYPD?

A My first assignment was patrolman with the 77th Precinct.

Q At some point, did you join the Crime Scene Unit?

A Yes.

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Official Court Reporter

1 Q When was that?

2 A That was in 1992.

3 Q What were your duties and responsibilities as an officer
4 assigned to the Crime Scene Unit?

5 A As a crime scene officer, I responded to homicides,
6 burglaries. We would assist the detectives who needed the
7 crime scene to be processed. By process, I mean taking
8 photographs, making sketches, if necessary, reflecting any
9 physical or ballistic evidence at the scene.

10 Q Directing your attention to October 21st of 1993.

11 What was your assignment that day?

12 A We were assigned -- my partner and I were assigned to
13 the -- to 106th Precinct garage to process two vehicles that
14 were involved in a homicide.

15 Q As you sit here today, do you recall each and every
16 detail of the crime scene you processed on that day?

17 A No.

18 Q At the time that you processed the two vehicles, did you
19 document what you did?

20 A Yes.

21 Q In notes and for a report?

22 A Yes, that's right.

23 Q Were you careful to be fair and accurate?

24 A Yes.

25 MS. ARGENTIERI: Judge, may I approach?

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Official Court Reporter

1 THE COURT: Yes.

2 Q I am showing the witness what's been marked as
3 3500 JY one, two and three.

4 What are those things, sir?

5 A This is the crime scene report that I prepared along with
6 a document -- I'm sorry -- a diagram of the vehicles that were
7 involved.

8 THE COURT: What exhibit is that?

9 THE WITNESS: This is JY one, is the crime scene
10 report.

11 THE COURT: Thank you.

12 Q And your notes and the diagrams you did are marked as
13 what?

14 A JY three.

15 MS. ARGENTIERI: The government asks that the
16 witness be able to refer to these documents during his
17 testimony pursuant to 803(5).

18 THE COURT: Any objection?

19 MR. McMAHON: No, Judge.

20 THE COURT: Your request is granted.

21 Q Sir, do those documents indicate what the Crime Scene
22 Unit run number was?

23 A Yes.

24 Q What was it?

25 A 93-2943-A.

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1 Q What were the two vehicles that you processed that day?

2 A The two vehicles were a 1993 Nissan and a 1984 Buick.

3 Q With regard to the Buick, what was the license plate
4 number?

5 A Let's see. The license plate number on the Buick was
6 RDW 146.

7 Q Do you recall what color it was?

8 A I believe it was brown.

9 Q With regard to the Nissan, what was the license plate
10 number?

11 A The license is X6W 283.

12 Q What color was it, if you recall?

13 A I believe that was a tan.

14 Q When you arrived -- first of all, where did you process
15 the vehicles, can you describe the location to the jury?

16 A It was in the garage of the 106th Precinct.

17 Q When you arrived at the garage of the 106th Precinct,
18 what did you do first?

19 A We verified the vehicle VIN numbers and license plate
20 numbers and then we proceeded to photograph the vehicles.

21 Q On this day, did you -- were you able to match the VIN
22 numbers to the paperwork you received?

23 A Yes.

24 Q What did you do next?

25 A Next I photographed the vehicles.

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1 Q Prior to -- when you arrived, were the vehicles secured
2 in any way?

3 A They were secured in the garage.

4 MS. ARGENTIERI: Judge, may I approach?

5 THE COURT: Yes.

6 Q I am showing the witness what was previously provided to
7 defense counsel and marked for identification as
8 20-A through I.

9 Can you just look through those, sir?

10 (Pause.)

11 What are those?

12 A Those are photographs of the Buick.

13 Q Are they photographs you took?

14 A Yes.

15 Q How do you know that?

16 A I have my stamp and initial on the back of the
17 photographs.

18 MS. ARGENTIERI: The government moves to admit
19 20-A through I.

20 MR. McMAHON: No objection.

21 THE COURT: I will receive Government's 20-A
22 through I.

23 (Marked.)

24 Q Now showing the witness 21-A through I for
25 identification.

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1 Can you look at those, sir?

2 A Sure.

3 (Pause.)

4 Q What are those?

5 A Those are photographs of -- I took of the Nissan.

6 Q How do you know they are photographs you took?

7 A Also stamped on the back with my initials.

8 MS. ARGENTIERI: The government moves to admit 21-A
9 through I.

10 MR. McMAHON: No objection.

11 THE COURT: All right. Received.

12 (Marked.)

13 MS. ARGENTIERI: Judge, may I publish certain of
14 these photos to the jury?

15 THE COURT: Yes.

16 Q Showing you 20-A in evidence.

17 What is that a photo of?

18 A That's the photo of the Buick.

19 Q And it is a front view?

20 A Yes, front view.

21 Q What if any damage can you see on the car in this photo?

22 A There is damage to the driver's side rear window,
23 passenger -- I would say driver's side passenger rear window.

24 Q To the driver's side window where I am indicating here?

25 A That's correct.

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1 Q And looking at Government Exhibit 20-B, does there appear
2 to be any damage to this side of the car?

3 A No.

4 Q I'm sorry. I should just indicate I meant the passenger
5 side.

6 Government Exhibit 20-C in evidence, what does this
7 photo show?

8 A This shows the back windshield of the Buick with damage
9 to the windshield.

10 Q At the center of the photo?

11 A That's correct.

12 Q What if anything can you see about the rear driver's side
13 window?

14 A The rear driver's side window is also broken.

15 Q Showing you Government Exhibit 20-D in evidence.

16 What is this a view of?

17 A This is a view of the driver's side interior of the
18 Buick.

19 Q And what is this object in the middle between the seats?

20 A That's a screwdriver.

21 Q Looking at the side panel of the steering wheel, what
22 damage did you observe there?

23 A The collar of the steering wheel is broken.

24 Q What is that consistent with?

25 A That's consistent most times with someone who wants to

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1 steal the vehicle.

2 Q Just looking at the seat, was there anything unusual
3 about the seat?

4 A Aside from the broken glass, the seat was pulled back as
5 far as it could go.

6 Q The driver's seat?

7 A The driver's seat.

8 Q Showing you Government Exhibit 20-E.

9 Is that a view of the driver's seat?

10 A That's correct.

11 Q And what were you and your partner measuring here?

12 A We were measuring the distance from the dash to the back
13 of the seat.

14 Q Showing you Government Exhibit 20-F in evidence.

15 What is that a view of?

16 A That's a view of the rear seat of the Buick.

17 Q And what is this in the seat?

18 A That's a broken glass CORRECTION.

19 Q Did you also recover a quantity of ballistics evidence in
20 this car?

21 A Yes, that's correct.

22 (Continued on next page.)

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1 BY MS. ARGENTIERI: (Continued)

2 Q And do you recall what type of ballistics evidence you
3 recovered from the car?

4 A They were discharged shells.

5 Q And have you reviewed a report recently?

6 A Yes.

7 Q Do you recall where those shell casings were recovered in
8 the car?

9 A A number of the shells were recovered on the seat and on
10 the back panel of the windshield.

11 Q That would be somewhere like up here (indicating)?

12 A Yes.

13 MS. ARGENTIERI: Showing you Government's
14 Exhibit 20-G in evidence.

15 (The above-referred to Exhibit was published to the
16 jury.)

17 Q Is that some of the shells?

18 A Yes, that's correct.

19 MS. ARGENTIERI: Showing you Government's
20 Exhibit 20-H in evidence.

21 (The above-referred to Exhibit was published to the
22 jury.)

23 Q Does that show the floor?

24 A Yes.

25 Q And what can you see in that picture?

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1 THE COURT: And what part of the floor?

2 Q What part of the vehicle's floor?

3 A That's the passenger side rear floor of the vehicle.

4 THE COURT: Thank you.

5 Q And I'm sorry, what can you see in that photo?

6 A Broken glass and ballistics evidence, discharged shells.

7 Q Those are all photos of the Buick; is that correct?

8 A Yes, that's correct.

9 MS. ARGENTIERI: Showing you Government's
10 Exhibit 21-A in evidence.

11 (The above-referred to Exhibit was published to the
12 jury.)

13 Q What is that a photo of?

14 A That's a photo front view of the Nissan.

15 MS. ARGENTIERI: Showing you Government's
16 Exhibit 21-B.

17 (The above-referred to Exhibit was published to the
18 jury.)

19 Q What does this photo show?

20 A That's showing the front view of the windshield of the
21 Nissan.

22 Q And is there damage indicated in this photo?

23 A Yes, ballistics damage to the windshield.

24 Q Are you referring to these bullet holes here
25 (indicating)?

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1 A Yes.

2 Q And what ballistics evidence did you recover, generally,
3 in the Nissan?

4 A Recovered, I would say, fragmented bullets and copper
5 jacketing.

6 MS. ARGENTIERI: Showing you Government's
7 Exhibit 21-C.

8 (The above-referred to Exhibit was published to the
9 jury.)

10 Q What does that show?

11 A That's the driver's side window. And it's broken.

12 MS. ARGENTIERI: Showing you Government's
13 Exhibit 21-D.

14 (The above-referred to Exhibit was published to the
15 jury.)

16 Q Can you see any ballistics damage in this photo?

17 A Yes, there's ballistics damage around the door jamb of
18 the driver's side of the vehicle.

19 Q Is that here, the top of the door (indicating)?

20 A Yes.

21 Q And then also over here (indicating)?

22 A Yes, that's correct.

23 MS. ARGENTIERI: Showing you Government's
24 Exhibit 21-E in evidence.

25 (The above-referred to Exhibit was published to the

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1 jury.)

2 Q What view of the Nissan is that?

3 A That's the passenger side and rear view, rear of the
4 vehicle.

5 Q And what ballistics damage, if any, did you observe?

6 A That's broken glass, and the back windshield is broken.

7 MS. ARGENTIERI: Showing you Government's
8 Exhibit 21-I.

9 (The above-referred to Exhibit was published to the
10 jury.)

11 Q What is that a view of?

12 A That's the rear seat of the Nissan.

13 Q And what can you see in this photo?

14 A There's broken glass on the seat.

15 Q And does it look like there are other items back there as
16 well?

17 A There are fragments of ballistics evidence on the seat.

18 Q You said bullet fragments?

19 A Yes.

20 Q Did you collect any ballistics evidence from either of
21 these two vehicles?

22 A Yes.

23 MS. ARGENTIERI: Showing you Government's
24 Exhibit 12-C in evidence, which contains a series of
25 envelopes marked Y-1 through Y-6.

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1 (The above-referred to Exhibit was published to the
2 jury.)

3 Q Who filled out these envelopes, sir?

4 A I did.

5 Q And how do you know that?

6 A My name and the Y-1 through Y-6 on the envelopes.

7 Q And what does that Y stand for?

8 A Y is the last letter -- I'm sorry, first letter in my
9 last name, Young.

10 Q And is this your handwriting, sir?

11 A Yes.

12 Q And where did you recover this evidence; can you tell
13 from the markings on the outside of the envelope?

14 A This evidence was recovered from the Nissan.

15 Q And looking first, for example, at Y-1. What did you
16 indicate Y-1 contained?

17 A The deformed copper-jacketed bullet.

18 Q And where did you indicate within the Nissan you
19 recovered this?

20 A That would be BHE-14.

21 Q Does that stand for bullet hole entry?

22 A That's correct.

23 Q And in your report, did you document where on the Nissan
24 that was, for example?

25 A Yes.

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1 Q And where was that location?

2 THE WITNESS: Can I look at my notes, Your Honor?

3 THE COURT: Yes, if you need to refer to your
4 report, you may.

5 THE WITNESS: Thank you.

6 (Pause in the proceedings.)

7 A 14 was on the top of the door jamb, on the driver's side.

8 Q And just as an example, is this what the item looked
9 like (showing) --

10 A Yes.

11 Q -- that you recovered?

12 A Yes.

13 Q And how did you extract it from the door?

14 A With pliers.

15 Q And the rest of this evidence was also recovered from the
16 Nissan?

17 A That's correct.

18 Q And looking at it, does it all appear to be bullets or
19 bullet fragments?

20 A Yes, that's correct.

21 Q And you testified that you also recovered some ballistics
22 evidence from the Buick?

23 A Yes.

24 MS. ARGENTIERI: Looking at 14-A-1 in evidence,
25 which contains envelopes marked 22, 23, 24, 25, 26, 28, and

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1 29.

2 (The above-referred to Exhibit was published to the
3 jury.)

4 Q Are those envelopes you prepared, sir?

5 A Yes, that's correct.

6 Q And where does it indicate that these, that this
7 ballistics evidence was found?

8 A This is recovered from the Buick.

9 Q And just looking at it, your description of the evidence
10 contained in these envelopes is what?

11 A .9-millimeter discharged shells.

12 Q And just opening the envelope marked Y-23, is that what
13 it looked like (showing)?

14 A Yes, that's correct.

15 Q And can you tell from where in the Buick Y-22 through
16 Y-26 were recovered, based on your report?

17 A Based on my report, the -- I'm sorry, the numbers again?

18 Q Y-22 through Y-26.

19 A That was recovered from the top of the rear deck of the
20 car, the back seat.

21 Q When you say top of the rear deck of the car, can you
22 just describe to the jury what you're talking about?

23 A Just the area of the back windshield where the speakers
24 might be.

25 MS. ARGENTIERI: Showing you next 14-A-2 in

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1 evidence. This contains items marked Y-7 through Y-12, and
2 Y-27.

3 (The above-referred to Exhibits were published to
4 the jury.)

5 Q Are those, again, envelopes you filled out?

6 A Yes, that's correct.

7 Q And where was this ballistics evidence recovered from?
8 Which car?

9 A This was also recovered from the Buick.

10 Q And again, what type of evidence was this, generally?

11 A These are discharged shells, .9-millimeter discharged
12 shells.

13 Q And with regard to the envelopes marked Y-7 through Y-12,
14 looking at your report, can you determine from what part of
15 the Buick you recovered these items?

16 A Yes, this was recovered in a bunch or cluster in the
17 right rear seat.

18 Q And with regard to Y-27?

19 A Y-27 was also recovered on the top deck of the back, near
20 the back windshield.

21 MS. ARGENTIERI: This is 14-A-3 in evidence. It
22 contains envelopes Y 13 through 21.

23 (The above-referred to Exhibit was published to the
24 jury.)

25 Q Are those, again, envelopes that you filled out?

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1 A Yes.

2 Q And again, what category of evidence was recovered in
3 these envelopes?

4 A These were .9-millimeter discharged shells from the
5 Buick.

6 Q And with regard to 13 through 15, where were these
7 recovered from within the Buick?

8 A These were also recovered on top of the right rear seat.

9 Q And what about 16 and 17?

10 A 16 and 17 were also on the left rear seat, top of left
11 rear seat.

12 Q And then, with regard to 18 through 21, where were they
13 recovered in the Buick?

14 A They were recovered on the left rear passenger floor.

15 Q So, where was the majority of the ballistics evidence
16 recovered from in the Buick?

17 A On, in the rear, rear seat and rear floor.

18 MS. ARGENTIERI: I'm sorry, there's just one more
19 envelope. Government's Exhibit 14-B in evidence. There are
20 envelopes marked Y 30, 31, and 32.

21 (The above-referred to Exhibits were published to
22 the jury.)

23 Q Are those envelopes that you filled out?

24 A Yes, that's correct.

25 Q And where were they recovered from?

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1 A They were recovered from the Buick.

2 Q And what type of evidence was this?

3 A This was also discharged shells. .9-millimeter
4 discharged shells.

5 Q Do you recall vouchering any other evidence on the Buick?

6 A There was also a ski mask recovered.

7 MS. ARGENTIERI: Judge, may I approach?

8 THE COURT: Yes, you may.

9 MS. ARGENTIERI: I'm showing the witness what's
10 marked as Government's Exhibit 15 for identification.

11 (Hanging.)

12 Q What is that?

13 A This is the ski mask that was recovered.

14 May I take it out?

15 Q Yes. How do you know it's the key mask you recovered?

16 A My initials are on the bottom.

17 MS. ARGENTIERI: I move to admit Government's
18 Exhibit 15.

19 THE COURT: Any objection?

20 MR. McMAHON: No objection.

21 THE COURT: Received.

22 (Government's Exhibit 15 was received in evidence.)

23 (The above-referred to Exhibit was published to the
24 jury.)

25 MS. ARGENTIERI: Can I ask the witness just to hold

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1 it up for the jury, Judge.

2 THE COURT: Yes. And this is 15?

3 MS. ARGENTIERI: Yes, 15.

4 (Showing.)

5 Q And where was that recovered in the Buick?

6 A That was recovered on top of the left rear seat of the
7 Buick.

8 MS. ARGENTIERI: Nothing further, Judge.

9 THE COURT: Cross-examination?

10 MR. McMAHON: Nothing, Judge.

11 THE COURT: You may step down, thank you.

12 THE WITNESS: Thank you.

13 (Witness excused.)

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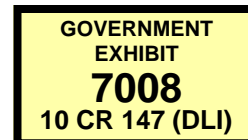
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Victoria A. Torres Butler, CRR

Official Court Reporter



1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----x
4 UNITED STATES OF AMERICA :
5 PLAINTIFF, : 10CR147
6 :
7 versus : United States Courthouse
8 : 225 Cadman Plaza East
9 : Brooklyn, N.Y. 11201
10 FRANK GUERRA, :
11 : June 19, 2012
12 DEFENDANT. : 9:30 A.M.
13 -----x

14
15 TRANSCRIPT OF JURY TRIAL
16 BEFORE THE HONORABLE SANDRA L. TOWNES
17 UNITED STATES DISTRICT COURT JUDGE

18 A P P E A R A N C E S:
19 For the Government:

20 LORETTA LYNCH
21 United States Attorney
22 BY: NICOLE ARGENTIERI, ESQ.
23 RACHEL NASH, ESQ.
24 ALLON LIFSHITZ, ESQ.
25 Assistant United States Attorney
26 271 Cadman Plaza East
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28 For the Defendant:

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37 Proceedings recorded by mechanical stenography, transcription
38 by computer-aided transcription.

39 CHARISSE KITT, CRI, CSR, RPR, FCRR
40 Official Court Reporter

Proceedings

1

5

MATTHEW TORMEY,

6

called as a witness, having been duly sworn, was examined and

7

testified as follows:

8

THE CLERK: Please state and spell your name for the
9 record.

10

THE WITNESS: Matthew Tormey. M-a-t-t-h-e-w,
11 T-o-r-m-e-y.

12

MS. NASH: May I inquire, Judge?

13

THE COURT: Yes, you may.

14

DIRECT EXAMINATION

15

BY MS. NASH:

16

Q Good morning. Were you previously employed by the
17 Federal Bureau of Investigations?

18

A Yes, I was.

19

Q How long did you work for the FBI?

20

A From 1991 through 1999.

21

Q What was your title at the FBI?

22

A Special agent.

23

Q What squad did you work on when you first joined the FBI?

24

A I did background investigations.

25

Q Where did you go from there?

Tormey - Direct/Nash

1 A I went to a squad called C31 which was in the violent
2 crimes program.

3 Q During what time period were you on Squad C31?

4 A Approximately 1993 through 1999.

5 Q What types of crimes did C31 investigate?

6 A We investigated a variety of violent crimes, including
7 murder, drugs, truck highjackings, robberies.

8 Q Drawing your attention to the time period between 1995
9 and 1999, what specifically are some of the crimes and
10 individuals you were investigating?

11 A I was investigating a group of individuals that consisted
12 of an individual named John Pappa, Calvin Hennigar,
13 Frank Guerra, Anthony Russo, and others, relating to the
14 murder of -- the murders of --

15 MR. McMAHON: Objection.

16 THE COURT: Basis?

17 MR. McMAHON: Judge, what his -- what his
18 investigatory process was is not relevant to the proceeding.

19 THE COURT: No. Overruled.

20 A We were investigating the murder of -- murders --
21 murders, drug dealing, bank robberies, among some other
22 things.

23 Q What were some of the murders you were investigating
24 during that time period?

25 A Eric Curcio, Joseph Scopo, Rolando Rivera.

1 Q Did your duties while you were on C31 include conducting
2 surveillance?

3 A Yes.

4 Q Directing your attention to April 24th of 1998, were you
5 conducting surveillance that day?

6 A Yes.

7 Q Have you testified on previous occasions about
8 surveillance that you conducted on that day?

9 A Yes.

10 Q Have you reviewed that testimony to help refresh your
11 recollection about the surveillance you conducted?

12 A Yes, I did.

13 Q Did it, in fact, help refresh your recollection as to
14 what you observed on April 24th of 1998?

15 A Yes, it did.

16 Q In what area were you conducting surveillance on that
17 day?

18 A Eleventh Avenue in Brooklyn.

19 Q What is located at 11th Avenue in Brooklyn in 1998?

20 A Romantique Limousines.

21 MS. NASH: May I approach, Your Honor?

22 THE COURT: Yes, you may.

23 Q First I'm showing you Government Exhibit 214A and 214B.

24 Do you recognize those photographs?

25 A Yes, I do.

1 Q Do they accurately depict your observations on April 24,
2 1998?

3 A Yes, they do.

4 MS. NASH: Government moves to admit 214A and B.

5 MR. McMAHON: Judge, may I see them?

6 THE COURT: Yes.

7 MR. McMAHON: No objection.

8 THE COURT: All right, I will receive Government
9 Exhibits 214A and 214B.

10 (Government's Exhibits 214A and 214B received in
11 evidence.)

12 Q I'm showing you now Government Exhibit 214. Are those
13 fair and accurate enlargements of Government Exhibits 214A and
14 -B?

15 A Yes, they are.

16 MS. NASH: The government moves to admit 214.

17 MR. McMAHON: No objection.

18 THE COURT: Received, 214.

19 (Government's Exhibit 214 received in evidence.)

20 MS. NASH: May the witness step down, Your Honor?

21 THE COURT: Yes.

22 MS. NASH: Can you step down, sir.

23 (Witness complies.)

24 Q Starting with the picture on the left-hand side of the
25 board, can you indicate the individuals in the picture?

Tormey - Direct/Nash

1 THE COURT: Wait. The picture on the left-hand side
2 of the board is what?

3 MS. NASH: That is an enlargement of Exhibit 214A.

4 THE COURT: Thank you.

5 A The individual in the light colored shirt with the light
6 colored cup to his mouth is Allie Boy; and the individual next
7 to him in the darker -- it looks like a blue jean jacket and
8 hat is BF.

9 Q What are the full names of those individuals?

10 A Alphonse Persico and Frank Guerra.

11 Q Could you put a sticker underneath the individual who you
12 identified as Alphonse Persico or Allie Boy.

13 (Witness complies.)

14 Q And can you also put a sticker indicating the individual
15 you identified as BF Frank Guerra.

16 (Witness complies.)

17 Q And similarly looking at the right-hand side picture,
18 which is Government Exhibit 214B or I should say an
19 enlargement of Government Exhibit 214B, can you identify the
20 individuals in the picture for the jury.

21 A The individual with the light colored shirt is Allie Boy
22 and the individual in the jean jacket is BF.

23 Q And once again, could you put a sticker indicating the
24 individual who is Alphonse Persico or Allie Boy.

25 (Continued on the next page.)

Tormey - Direct/Nash

1 Q And can you do the same for Frank Guerra.

2 (Witness complies.)

3 Q Thanks. You can take your seat.

4 (Witness complies.)

5 Q Directing your attention now to October 27, 1994; were
6 you working that day?

7 A Yes.

8 Q And in connection -- On that day were you also conducting
9 surveillance?

10 A Yes, I was.

11 Q In connection -- in connection with your observations on
12 October 27, 1994, did you prepare reports?

13 A Yes, I did.

14 Q Would those reports help refresh your recollection as to
15 what you observed and what you did?

16 A Yes.

17 MS. NASH: May I approach?

18 THE COURT: Yes, you may.

19 Q I'm showing you 3500MT28, 29, and 30. Can you look at
20 those and tell me if those are the reports that you prepared
21 in connection with your work on October 27, 1994.

22 (Witness perusing.)

23 A Yes, October 27th, 28th, and 31st [sic] of 1994.

24 THE COURT: That's 28, 29, and 30?

25 THE WITNESS: I'm sorry, October 27th --

1 THE COURT: No, the exhibit.

2 THE WITNESS: Yes, 28, 29, and 30.

3 THE COURT: Thank you.

4 Q On October 27, 1994, where were you conducting
5 surveillance?

6 | A Seventh Avenue and 23rd Street in Brooklyn.

7 | Q What did you observe that day?

8 A We were sitting on a U-Haul truck and we observed two
9 individuals go to the back of the truck remove a box, take it
10 to an apartment, return to the truck, take two more boxes out,
11 and then we approached them.

12 | Q What happened after that?

13 | A With regard -- What did we do after that?

14 Q What, if anything, did you do with regard to the U-Haul
15 truck?

16 A We looked in the rear of the U-Haul truck to see what the
17 contents of the truck were. We also looked in the cabin to
18 see the contents of the cabin.

19 Q What did you find in the U-Haul truck?

20 | A There was a load of hand-held games.

21	Q	What do you mean by load?
----	---	---------------------------

22 | A The truck was full with hand-held video games.

23 Q What, if anything, else did you find in the truck?

24 A We found a lease agreement for the rental of the truck.

25 MS. NASH: May I approach, Your Honor?

Tormey - Direct/Nash

1 THE COURT: Yes.

2 Q Showing you first Exhibit 864. Do you recognize that
3 document?

4 A Yes, I do.

5 Q What is that?

6 A This is the copy of the lease agreement that was found in
7 the truck.

8 Q The government moves to admit 864?

9 MR. McMAHON: No objection.

10 THE COURT: Received.

11 (Government's Exhibit 864 received in evidence.)

12 Q I'm showing you now a series of photographs marked 865.
13 Do you recognize those?

14 THE COURT: The series is marked 865?

15 MS. NASH: Yes, Judge. I can mark them 865A through
16 -E, if you'd prefer?

17 THE COURT: Yes, I would.

18 A Yes, I do.

19 Q Are those -- what are they? What are those photographs?

20 A The first one which depicts --

21 Q Just describe it, yes, since I haven't moved them in.

22 A The first one is a picture looking into the rear of the
23 truck and it depicts the boxes in the back of the truck.

24 Q Are the remaining pictures accurate photographs of what
25 you observed inside the truck?

2 MS. NASH: Government moves to admit 865A through
3 -E.

5 THE COURT: All right, I'll receive 865A, -B, -C,
6 -D, and -E.

9 Q Showing you first Government Exhibit 864; can you see
10 that on your screen?

12 Q Can you indicate the name in which this agreement is in?

14 Q And can you indicate the date of the agreement?

16 Q In connection with this investigation, did you interview
17 Anthony Russo?

19	Q	What year was he born in?
----	---	---------------------------

21 Q I'm showing you Exhibit 865, which we will mark as 865A;
22 it's the first page of the photographs you reviewed.

24 A That's a view into the back of the truck that we were
25 surveilling that morning.

Tormey - Direct/Nash

1 Q Continuation of 865 which we will mark 865B.

2 A This is a close --

3 Q What does that depict?

4 A This is a closeup of some of the boxes that were in the
5 truck.

6 Q And can you read the names of the -- or what is indicated
7 on the boxes?

8 A Mortal Combat, The Lion King, Mighty Morphin Power
9 Rangers.

10 Q Third page of 865 through label 865C.

11 A That's a picture of a Mortal Combat game.

12 Q 865D?

13 A Picture of the Power Rangers game.

14 Q And 865E?

15 A Picture of Lion King Game.

16 Q Do you know approximately how many cases of video games
17 were in this U-Haul truck?

18 A Approximately 570.

19 Q About how many games are in each case?

20 A Twenty-four.

21 Q What, if anything, did you discover about the U-Haul
22 truck?

23 A It had been reported stolen by Mr. Russo.

24 Q In connection with the investigation that you were
25 conducting between 1995 and 1999, that you have testified

Tormey - Direct/Nash

1 about earlier, what, if any, court orders did you obtain in
2 1998?

3 A We obtained a court order for blood samples from some of
4 the -- from some of the individuals we were investigating.

5 Q Who are some of the individuals that you obtained a court
6 order for blood samples for?

7 A John Pappa, Anthony Russo, Frank Guerra.

8 MS. NASH: Thank you. May I have a moment?

9 THE COURT: Yes.

10 (Pause.)

11 MS. NASH: No further questions. Thank you.

12 THE COURT: Cross-examination.

13 MR. McMAHON: Yes.

14 CROSS-EXAMINATION

15 BY MR. McMAHON:

16 Q Former Agent Tormey, what do you do now for a living?

17 A I'm a compliance officer.

18 Q What company?

19 A Pardon me?

20 Q For a corporation?

21 A Yes, correct.

22 Q Now, you said that part of your job was doing
23 surveillances. Is that correct, sir?

24 A Correct.

25 Q And when you do a surveillance, is it generally a two-man

Tormey - Cross/McMahon

1 team? one-man team? how did you do that?

2 A It varies. There are teams; usually at least two people.
3 It could be a team of multiple people.

4 Q And one person would likely have a camera and the other
5 one would be making notes. Is that correct, sir?

6 A Possibly.

7 Q Now, C31 investigated, I guess, activities of some
8 organized crime, Colombo family. Was that part of C31's
9 jurisdiction, shall we say?

10 A It -- it could. It wasn't technically. We investigated
11 violent crimes.

12 Q Okay.

13 Now, Johnny Pappa was pretty much a homicidal
14 maniac?

15 MS. NASH: Objection.

16 THE COURT: Yes, sustained.

17 Q Was John Pappa the focus of your investigation for many
18 years?

19 A Yes.

20 Q He killed a lot of people?

21 A He killed people.

22 Q More than five?

23 A He was convicted of --

24 Q I didn't ask what he was convicted of. You told us who
25 you investigated and everything.

Tormey - Cross/McMahon

1 A Right.

2 Q Did he kill more than five people?

3 A We were investigating multiple homicides. I don't recall
4 the specific number.

5 Q Okay.

6 Now, you did a lot of surveillances in your career
7 as an agent?

8 A Yes.

9 Q And you took a lot of pictures?

10 A Again, I'm not sure what you mean by "a lot." I took
11 pictures on my surveillances, yes.

12 Q Well, I'm talking about your surveillances. Did you take
13 pictures?

14 A I took pictures during surveillances, yes.

15 Q Do you have a problem with the word "lot"?

16 MS. NASH: Objection.

17 Q I want to know how many pictures did you take in your
18 career. Did you take more than 50 pictures in your career?

19 A I don't recall specifically.

20 Q As you sit here today you don't know if you took
21 thousands or 2,000 pictures?

22 MS. NASH: Objection.

23 THE COURT: No, overruled.

24 A Correct.

25 Q But you took lots of pictures?

Tormey - Cross/McMahon

1 A I took lots of pictures during surveillances yes.

2 Q And these were the only two that you could find
3 Frank Guerra in?

4 MS. NASH: Objection.

5 THE COURT: No, overruled.

6 A I didn't look for pictures.

7 Q So you were just basically handed these to identify?

8 A Correct.

9 Q Now, do you know whether or not you did a surveillance
10 leading to these pictures. Is that correct, sir?

11 A Correct.

12 Q Now, did you continue surveillance and follow them to
13 Allie Boy Persico's boat?

14 A No.

15 Q Where did they go after this picture?

16 A They headed into Staten Island.

17 Q Okay.

18 Now, did you see whether or not on one of these
19 occasions they were researching or checking out locations for
20 a bagel store on Staten Island?

21 A I don't have any idea.

22 Q Did you see them go into locations at strip malls that
23 had stores in them?

24 A We followed them from Romantique until they went over the
25 Verrazano Bridge and they were gone.

Tormey - Cross/McMahon

1 Q Now, you said on direct examination that you were
2 investigating John Pappa, Calvin Hennigar, Frank Guerra, and
3 Anthony Russo. Is that who you said you were investigating
4 between 9 '5 and '99?

5 A Among others, correct.

6 Q Among others were Dino Basciano?

7 A Dino Basciano had been arrested prior to that.

8 Q Okay. Frank Iborti?

9 A Who?

10 Q Frank -- Joseph Iborti?

11 A He had been arrested prior to that.

12 Q Well, he was arrested in December of '94?

13 A Correct.

14 Q And you spent a lot of time with Joseph Iborti?

15 A I spent time with Joseph Iborti, yes.

16 Q And you investigated crimes that Joseph Iborti committed,
17 did you not?

18 A I didn't investigate Joseph Iborti.

19 Q Did you investigate crimes -- some of the crimes he
20 committed?

21 A Joseph Iborti provided --

22 Q It's a yes or no answer, sir.

23 Did you investigate some of the crimes that Joseph
24 Iborti committed?

25 A Yes.

Tormey - Cross/McMahon

1 Q Now, you were also investigating John Sparacino?

2 A Correct.

3 Q Sal Sparacino?

4 A Correct.

5 Q Eric Curcio?

6 A Correct.

7 Q Rolando Rivera?

8 A Murder of Rolando Rivera.

9 Q So is there some reason -- well, withdrawn.

10 Now, you took -- you got a court order for DNA and
11 blood samples of Mr. Guerra in 1998. Is that correct, sir?

12 A Correct.

13 Q And he voluntarily complied with your request and
14 provided that information?

15 A To my recollection, yes.

16 Q And he was not arrested as a result of providing that
17 scientific evidence?

18 A Correct.

19 Q Now, you testified in the grand jury that Curcio and
20 Pappa shot Joe Scopo. Is that correct, sir?

21 MS. NASH: Objection: Outside the scope.

22 THE COURT: Overruled.

23 A John Pappa shot Joe Scopo, is what I recall.

24 Q All right.

25 Directing your attention to 3500MT23, page 19. If I

1 may approach.

2 (Handing.)

3 Q Take a look at page 19 of that testimony and see if that
4 refreshes your recollection.

5 (Witness perusing.)

6 A Okay.

7 Q Does that refresh your recollection, sir, that you
8 testified under oath in the grand jury that Johnny Pappa and
9 Eric Curcio got out of the car and shot Joe Scopo on
10 October 23, 1993?

11 A That's not accurate.

12 Q I didn't ask you if that's accurate. I asked you did you
13 testify under oath in the grand jury on that day?

14 A I testified under oath in the grand jury that day that
15 Pappa and Curcio got out of the vehicle and Scopo was shot and
16 killed.

17 Q And did you certainly mean to suggest to the grand jury
18 that day that Curcio and Pappa shot Scopo?

19 A No, Pappa shot Scopo.

20 Q But standing next to him getting out of the car with him
21 was Eric Curcio. Is that correct, sir?

22 A Correct.

23 Q Not John Sparacino?

24 A I'm not sure what you're asking me.

25 Q Okay.

Tormey - Cross/McMahon

1 But that was your testimony in October, what was
2 that, 1996, or '4?

3 A That is a piece of my testimony.

4 Q Well, you have the first page of your testimony. Does
5 that refresh your recollection as to the date of your
6 testimony?

7 A I'm sorry. When I say it was a piece of my testimony, it
8 was several hours of testimony. This is a page of the
9 testimony, correct.

10 Q I understand. But you do try to be truthful on each and
11 every sentence you say in the grand jury?

12 A Absolutely.

13 Q You don't just sort of give several hours and then maybe
14 have a sentence or two?

15 MS. NASH: Objection.

16 THE COURT: Yes. You know, there are -- first of
17 all, there isn't any indication that he lied.

18 MR. McMAHON: I'm not saying he lying, Judge. What
19 I'm saying is maybe he's mistaken; maybe he's truthful.

20 Q Did you testify under oath in the grand jury that
21 Eric Curcio and John Pappa got out and Pappa shot Scopo?

22 A I testified that, yes, Pappa and Curcio got out of the
23 car and Scopo was shot.

24 Q Okay.

25 Now, when you go into the grand jury to testify,

Tormey - Cross/McMahon

1 it's like anywhere from 15 to 23 people that are there. Is
2 that correct, sir?

3 A Yes.

4 Q Civilian people?

5 A Yes.

6 Q You raised your right hand swear to tell the truth?

7 A Yes.

8 Q And you were absolutely truthful to the best of your
9 recollection, to the best of your knowledge. Is that correct,
10 sir?

11 A Yes.

12 Q That's what you said in the grand jury on October --
13 October 10, 1996. Is that correct, sir?

14 A If that's the date there, yes.

15 Q Okay.

16 Now, you also told the grand jury that the order to
17 kill Scopo came from Jo Jo Russo and Joe Monte. Is that
18 correct, sir?

19 A I don't specifically recall.

20 Q Let me refresh your recollection.

21 3500MT25, this would be pages 20 and 21.

22 MR. McMAHON: May I approach the witness, Your
23 Honor?

24 THE COURT: Yes, you may.

25 Q Bottom of page 20, top of page 21.

Tormey - Cross/McMahon

1 (Witness perusing.)

2 Q Does that refresh your recollection, sir, that you
3 testified in the grand jury on that occasion under oath that
4 the order to kill Scopo came from Jo Jo Russo and Joe Monte?

5 A I testified that I was told by a cooperator that another
6 individual had received the authorization from Joe Monte and
7 Jo Jo Russo, correct.

8 Q And the person they were talking about killing was
9 Joe Scopo. Is that correct, sir?

10 A Correct.

11 Q Now, on that same grand jury appearance, sir, and I would
12 refresh your recollection perhaps to December 9, 1997, did you
13 also make it clear at that grand jury appearance that they --
14 that they, Pappa and Curcio, killed -- they shot Scopo
15 referring to Pappa and Curcio?

16 A I don't recall.

17 Q All right.

18 MR. McMAHON: If I may approach, Your Honor.

19 Q Page 19, and I'll hand you the cover page so you can see
20 the date.

21 (Witness perusing.)

22 A I testified that --

23 Q Yes or no, sir?

24 A What's the question?

25 Q You're an attorney, are you not, Mr. Tormey?

1 MS. NASH: Objection.

2 THE COURT: Yes, sustained. What's the question?

3 Do you want it --

4 Q Does that refresh your recollection that you testified in
5 the grand jury under oath that they, referring to Pappa and
6 Curcio, shot Scopo. Yes or no?

7 A No.

8 Q All right. Line --

9 MR. McMAHON: If I may read the question and answer
10 to him, Your Honor?

11 THE COURT: Yes.

12 Q "QUESTION: -- at line 14 -- and again, I would ask you to
13 describe for the grand jury, in substance, what you learned
14 from Mr. Iborti?

15 "ANSWER: Pappa told Iborti that he, Curcio,
16 Sparacino, Anthony Russo, and Frank Guerra were responsible
17 for killing Joe Scopo. He stated that he was the one who
18 actually -- that he and Curcio got out of the car and he was
19 the one that actually killed Scopo. And after they shot
20 Scopo, Sparacino had taken off in the car and they were forced
21 to run three blocks to get to a getaway car.

22 Did you give those answers -- that answer to that
23 question?

24 A That's correct.

25 Q Now, when you said they shot Scopo, who was the "they"

1 that you were referring to in that sentence?

2 A What it says is that --

3 Q Who is the "they"?

4 A Pappa told --

5 Q Who were you referring to?

6 A Pappa told Iborti that I --

7 Q Sir, who is the "they?" Those are your words. Who is
8 the "they" that shot Scopo? In your words, who were you
9 referring to with that pronoun?

10 A I think it's clear that Pappa -- Iborti told Pappa or
11 Pappa told Iborti.

12 Q Sir, sir, just answer my question. I just read to you
13 what you said.

14 MS. NASH: Objection.

15 Q Who is the "they"?

16 A I'm trying to answer your question.

17 Q Can you associate -- can you put names to "they"?

18 A The individuals that were present when Scopo was shot.

19 Q No, no, sir. I didn't ask you -- the question was that
20 after they shot Scopo, this is Matt Tormey in the grand jury
21 on November -- on December 9, 1997, under oath?

22 A Correct.

23 Q When you told that to the grand jury, when you said they
24 shot Scopo, were you referring to Curcio and Pappa?

25 A I was referring to whoever was named there.

Tormey - Cross/McMahon

1 Q Now, are you a lawyer, sir?

2 MS. NASH: Objection.

3 THE COURT: Well, you're a lawyer. He can answer
4 the question.

5 A Yes, not practicing lawyer.

6 Q Well, that's okay. It's a noble profession.

7 And this was based on information from Iborti?

8 A Correct.

9 Q And he had told you that Sparacino took off in the car
10 and Pappa and Curcio had to run three blocks to the get-away
11 car?

12 A I believe that's correct.

13 Q And the get-away car was Eric Curcio's Green Honda?

14 A I don't recall.

15 MR. McMAHON: Nothing further, Judge.

16 THE COURT: Any redirect?

17 MS. NASH: Yes, Judge, briefly.

18 REDIRECT EXAMINATION

19 BY MS. NASH:

20 Q At the time that you provided grand jury testimony, was
21 anyone who was directly involved in the Scopo murder was
22 present at the time of the Scopo murder cooperating with the
23 government?

24 A Anyone who was present at the scene of the murder?

25 Q Correct.

1 A No.

2 THE PLAINTIFF: No further questions.

3 RECROSS-EXAMINATION

4 BY MR. McMAHON:

5 Q Agent -- Mr. Tormey, are you suggesting that
6 Anthony Russo is being truthful and Mr. Iborti and Pappa lied?

7 MS. NASH: Objection.

8 THE COURT: Yes, objection is sustained. Improper
9 question.

10 Q Well, when you told the grand jury what cooperating
11 witnesses tell you, you have every reason to believe that the
12 information you're being given is truthful. Is that correct,
13 sir?

14 A Correct.

15 Q You would not be telling grand jurors, who are deciding
16 whether or not to indict somebody, information that you think
17 is sketchy or a little fuzzy, would you, sir?

18 A Correct.

19 Q And you did not in anyway suggest to the grand jury that
20 per this evidence on these days, that you thought that the
21 information maybe wasn't true, did you?

22 A No.

23 MR. McMAHON: Nothing further.

24 THE COURT: All right.

25 MS. NASH: Nothing further.

GOVERNMENT
EXHIBIT
7009
10 CR 147 (DLI)GOVERNMENT
EXHIBIT
3500-MT-28
10 CR 147 (SLT)

FD-302 (Rev. 3-10-82)

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/28/94

At approximately 6:00am, surveillance was initiated in the vicinity of 7th Avenue and 23rd Street in Brooklyn, New York. Parked on 23rd Street, between 6th and 7th Avenues, was a Uhaul straight truck, orange and white in color, bearing Pennsylvania license "YF 08922" (Hereinafter, "the Uhaul").

At approximately 11:20am, two male whites (Unsub #1 and Unsub #2) were observed approaching the rear of the Uhaul and opening the back door. They removed one box, closed the door, and carried the box into an apartment across the street. Unsubs #1 and #2 thereafter returned to the truck, again opened the back door, and began removing boxes and placing them on the sidewalk.

Special Agents Matthew F. Tormey and George Wright approached Unsub #1 and Unsub #2, identified themselves as Special Agents of the FBI, and temporarily detained Unsubs #1 and #2. The individuals were identified as [REDACTED] and [REDACTED]. They stated that they did not rent the truck nor did they know who rented the truck. They saw the truck park there the previous night, October 26, 1994, and observed the driver get out of the truck and run into the graveyard. The driver never came back and they wanted to know what the truck contained. They stated that they had no intention of stealing the entire truck. Thereafter, they were turned over to the custody of the local Police.

A silver "Guard Security" lock was found at the rear of the Uhaul and in the cab of the Uhaul was a rental agreement in the name of ANTHONY RUSSO, [REDACTED] Brooklyn, New York, [REDACTED]. The Uhaul contained 570 cases of assorted Tri-Action Video games.

Investigation on 10/27/94 at BROOKLYN, NEW YORK File # [REDACTED]by SA's MATTHEW F. TORMEY and GEORGE WRIGHT Date dictated 10/28/94

FD-302a (Rev. 11-15-83)

Continuation of FD-302 of _____

, On 10/27/94, Page 2

The following identifying information was obtained:

UNSUB #1:

NAME:

RACE:

SEX:

DOB:

ADDRESS:

TELEPHONE:

WHITE

MALE

#2:

NAME:

RACE:

SEX:

DOB:

ADDRESS:

TELEPHONE:

WHITE

MALE

GOVERNMENT
EXHIBIT
7010
10 CR 147 (DLI)

GOVERNMENT
EXHIBIT
3500-MT-29
10 CR 147 (SLT)

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/28/94

Photographs were taken of an orange and white Uhaul truck, Pennsylvania license "YF 08922", and the contents which consisted of 570 cases of assorted hand held video games including "Lion King", "Mortal Kombat", and "Power Rangers".

An inventory of the passenger section of the truck revealed the following items:

- (1) one package of "KOOL" cigarettes (on front seat);
and
- (2) one package of "Marlboro" cigarettes (on floor of passenger side).

The truck was dusted for fingerprints and one lift was taken from the driver's side view mirror and two were taken from the outside of the passenger door, below the door handle.

The odometer read 78,190.7 and the gas needle was between Empty and 1/8 of a tank.

Investigation on 10/28/94 at BROOKLYN, NEW YORK File # [REDACTED]
by SA MATTHEW F. TORMEY Date dictated 10/28/94

GOVERNMENT
EXHIBIT
7011
10 CR 147 (DLI)

GOVERNMENT
EXHIBIT
3500-MT-30
10 CR 147 (SLT)

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/31/94

Photographs were taken of the following items which constitute samples of items found in a Uhaul truck Pennsylvania license "YF 08922" which was recovered on October 27, 1994:

- 1) ONE CARTON "LION KING" HAND HELD VIDEO GAMES;
- 2) ONE CARTON "MORTAL KOMBAT" HAND HELD VIDEO GAMES;
and
- 3) ONE CARTON "POWER RANGERS" HAND HELD VIDEO GAMES.

There were twenty-four games in each carton. The labels had been removed from the outside boxes.

These items are being maintained for evidentiary purposes.

Investigation on 10/31/94 at QUEENS, NEW YORK File # [REDACTED]
by SA MATTHEW F. TORMEY Date dictated 10/31/94

Cr. No. _____
(T. 18, U.S.C., §§ 371,
892(a), 893, 894(a)(1),
922(g)(1), 924(a)(2),
924(c)(1)(A)(i),
924(c)(1)(A)(ii), 924(d),
981(a)(1)(C), 982,
982(a)(2)(A), 1343, 1349,
1951(a), 1952(a)(3)(A),
1955(a), 1955(d), 1956(h),
1962(d), 1963, 1963(a),
1963(m), 2342(a), 2344(a),
2 and 3551 et seq.; T. 21,
U.S.C., §§ 841(a)(1),
841(b)(1)(D), 846, 853(a),
853(p); T. 28, U.S.C.,
§ 2461(c))

GAETANO GALLO,
also known as "Tommy,"
GIOVANNI GALLUZZO,
also known as "John,"
ALI JUSEINOSKI,
JOHN MAGGIO,
REYNOLD MARAGNI,
also known as "Ren" and
"Reynolds,"
HECTOR PAGAN,
also known as "Junior,"
THEODORE PERSICO, JR.,
also known as "Teddy" and "the
kid,"
FRANK PONTILLO,
also known as "Frankie Steel,"
NICKY RIZZO,
JACK RIZZOCASCIO,
also known as "Jack the Whack,"
JOHN ROSSANO,
ANTHONY RUSSO,
also known as "Big Anthony,"
JOSEPH SAVARESE,
RALPH SCOPO, JR.,
FRANK SENATORE,
also known as "Buzz,"
ILARIO SESSA,
also known as "Larry," "Fat
Larry" and "FL,"
ANGELO SPATA,
also known as "Little Angelo,"
LOUIS VENTURELLI,
also known as "Louie Ices,"
JOSEPH VIRZI and
VITO VIZZI,

Defendants.

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THE GRAND JURY CHARGES:

INTRODUCTION TO ALL COUNTS

At all times relevant to this Indictment, unless otherwise indicated:

The Enterprise

1. The members and associates of the Colombo organized crime family of La Cosa Nostra constituted an "enterprise," as defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact (hereinafter, the "Colombo crime family" and the "enterprise"). The enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise. The Colombo crime family engaged in, and its activities affected, interstate and foreign commerce. The Colombo crime family was an organized criminal group that operated in the Eastern District of New York and elsewhere.

2. La Cosa Nostra operated through organized crime families. Five of these crime families - the Bonanno, Colombo, Gambino, Genovese and Luchese crime families - were headquartered in New York City and supervised criminal activity in New York, in other areas of the United States and, in some instances, in other countries. Another crime family, the Decavalcante crime family, operated principally in New Jersey, but from time to time also in New York City.

3. The ruling body of La Cosa Nostra, known as the "Commission," consisted of leaders from each of the crime families. The Commission convened from time to time to decide

certain issues affecting all of the crime families, such as rules governing crime family membership.

4. The Colombo crime family had a hierarchy and structure. The head of the Colombo crime family was known as the "boss." The Colombo crime family boss was assisted by an "underboss" and a counselor known as a "consigliere." Together, the boss, underboss and consigliere were the crime family's "administration." With the assistance of the underboss and consigliere, the boss was responsible for, among other things, setting policy and resolving disputes within and between La Cosa Nostra crime families and other criminal groups. The administration further supervised, supported, protected and disciplined the lower-ranking participants in the crime family. In return for their supervision and protection, the administration received part of the illegal earnings generated by the crime family. Members of the Colombo crime family served in an "acting" rather than "official" capacity in the administration on occasion due to another administration member's incarceration or ill health, or for the purpose of seeking to insulate another administration member from law enforcement scrutiny. Further, on occasion, the Colombo crime family was overseen by a "panel" of crime family members that did not include the boss, underboss and/or consigliere.

5. Below the administration of the Colombo crime family were numerous "crews," also known as "regimes" and "decinas." Each crew was headed by a "captain," also known as a "skipper," "caporegime" and "capodecina." Each captain's crew consisted of "soldiers" and "associates." The captain was responsible for supervising the criminal activities of his crew and providing the crew with support and protection. In return, the captain often received a share of the crew's earnings.

6. Only members of the Colombo crime family could serve as a boss, underboss, consigliere, captain or soldier. Members of the crime family were referred to on occasion as "goodfellas" or "wiseguys," or as persons who had been "straightened out" or who had their "button." Associates were individuals who were not members of the crime family, but who nonetheless engaged in criminal activity for, and under the protection of, the crime family.

7. Many requirements existed before an associate could become a member of the Colombo crime family. The Commission of La Cosa Nostra from time to time limited the number of new members that could be added to a crime family. An associate was also required to be proposed for membership by an existing crime family member. When the crime family's administration considered the associate worthy of membership, the administration then circulated the proposed associate's name on a

list given to other La Cosa Nostra crime families, which the other crime families reviewed and either approved or disapproved. Unless there was an objection to the associate's membership, the crime family then "inducted," or "straightened out," the associate as a member of the crime family in a secret ceremony. During the ceremony, the associate, among other things: swore allegiance for life to the crime family above all else, even the associate's own family; swore, on penalty of death, never to reveal the crime family's existence, criminal activities and other secrets; and swore to follow all orders issued by the crime family boss, including swearing to commit murder if the boss directed it.

Methods and Means of the Enterprise

8. The principal purpose of the Colombo crime family was to generate money for its members and associates. This purpose was implemented by members and associates of the Colombo crime family through various criminal activities, including drug trafficking, robbery, extortion, fraud, illegal gambling and loansharking. The members and associates of the Colombo crime family also furthered the enterprise's criminal activities by threatening economic injury and using and threatening to use physical violence, including murder.

9. Although the primary purpose of the Colombo crime family was to generate money for its members and associates, the

members and associates at times used the resources of the family to settle personal grievances and vendettas, sometimes with the approval of higher-ranking members of the family. For those purposes, members and associates of the enterprise were asked and expected to carry out, among other crimes, acts of violence, including murder and assault.

10. The members and associates of the Colombo crime family engaged in conduct designed to prevent government detection of their identities, their illegal activities and the location of proceeds of those activities. That conduct included a commitment to murdering persons, particularly members or associates of the crime families, who were perceived as potential witnesses against members and associates of the enterprise.

11. Members and associates of the Colombo crime family often coordinated criminal activity with members and associates of other organized crime families.

The Defendants

12. At various times relevant to this Indictment, the defendant ANDREW RUSSO, also known as "Mush," was a street boss, captain, soldier and associate within the Colombo crime family.

13. At various times relevant to this Indictment, the defendant BENJAMIN CASTELLAZZO, also known as "Benji," "the Claw" and "the Fang," was an underboss, captain, soldier and associate within the Colombo crime family.

14. At various times relevant to this Indictment, the defendants JOSEPH CARNA, also known as "Junior Lollipops," DENNIS DELUCIA, also known as "Fat Dennis," "Little Dennis" and "the Beard," REYNOLD MARAGNI, also known as "Ren" and "Reynolds," and ANTHONY RUSSO, also known as "Big Anthony," were captains, soldiers and associates within the Colombo crime family.

15. At various times relevant to this Indictment, the defendants EMANUELE FAVUZZA, also known as "Manny," VINCENT FEBBRARO, also known as "Jimmy Gooch," NICKY RIZZO, JOSEPH SAVARESE and RALPH SCOPO, JR. were soldiers and associates within the Colombo crime family.

16. At various times relevant to this Indictment, the defendants DANIEL BOGAN, ANTHONY CALABRO, also known as "Nooch," ROGER CALIFANO, MICHAEL CASTELLANO, also known as "Big Mike," GIUSEPPE DESTEFANO, also known as "Pooch," SCOTT FAPPIANO, ALI JUSEINOSKI, JACK RIZZOCASCIO, also known as "Jack the Whack," FRANK SENATORE, also known as "Buzz," ILARIO SESSA, also known as "Larry," "Fat Larry" and "FL," and ANGELO SPATA, also known as "Little Angelo," were associates within the Colombo crime family.

COUNT ONE
(Racketeering Conspiracy)

17. The allegations contained in paragraphs 1 through 16 are realleged and incorporated as if fully set forth in this paragraph.

18. In or about and between June 1991 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants DANIEL BOGAN, ANTHONY CALABRO, also known as "Nooch," ROGER CALIFANO, JOSEPH CARNA, also known as "Junior Lollipops," MICHAEL CASTELLANO, also known as "Big Mike," BENJAMIN CASTELLAZZO, also known as "Benji," "the Claw" and "the Fang," GIUSEPPE DESTEFANO, also known as "Pooch," SCOTT FAPPIANO, EMANUELE FAVUZZA, also known as "Manny," VINCENT FEBBRARO, also known as "Jimmy Gooch," ALI JUSEINOSKI, NICKY RIZZO, JACK RIZZOCASCIO, also known as "Jack the Whack," ANTHONY RUSSO, also known as "Big Anthony," FRANK SENATORE, also known as "Buzz," and ANGELO SPATA, also known as "Little Angelo," together with others, being persons employed by and associated with the Colombo crime family, an enterprise that engaged in, and the activities of which affected, interstate and foreign commerce, did knowingly and intentionally conspire to violate Title 18, United States Code, Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of that enterprise through a pattern of racketeering activity, as defined in Title 18, United States Code, Sections 1961(1) and 1961(5), consisting of the racketeering acts set forth below. Each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

RACKETEERING ACT ONE
(Murder/Murder Conspiracy - Joseph Scopo)

19. The defendant named below agreed to the commission of the following acts, either one of which alone constitutes Racketeering Act One:

A. Conspiracy to Murder Joseph Scopo

20. On or about and between June 20, 1991 and October 20, 1993, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant ANTHONY RUSSO, together with others, did knowingly and intentionally conspire to cause the death of Joseph Scopo, contrary to New York Penal Law Sections 125.25(1) and 105.15.

B. Murder of Joseph Scopo

21. On or about October 20, 1993, within the Eastern District of New York, the defendant ANTHONY RUSSO, together with others, with intent to cause the death of Joseph Scopo, did cause his death, contrary to New York Penal Law Sections 125.25(1) and 20.00.

RACKETEERING ACT TWO
(Receipt of Stolen Property - Video Games)

22. On or about and between October 20, 1994 and October 27, 1994, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant ANTHONY RUSSO, together with others, did knowingly and intentionally receive, possess, conceal, store, barter, sell and

dispose of goods, wares and merchandise, to wit: video games of a value of \$5,000 or more, which goods, wares and merchandise had crossed a State boundary after being stolen, unlawfully converted and taken, knowing the same to have been stolen, unlawfully converted and taken, contrary to Title 18, United States Code, Sections 2315 and 2.

RACKETEERING ACT THREE
(Wire Fraud - Personal Loans)

23. In or about and between 1995 and 2000, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants ANTHONY CALABRO, MICHAEL CASTELLANO and FRANK SENATORE, together with others, did knowingly and intentionally devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, to wit: telephone calls in which the conspirators made false promises to fund personal loans and faxes of confirmation letters, contrary to Title 18, United States Code, Sections 1343 and 2.

24. It was a part of the scheme that the defendant MICHAEL CASTELLANO, together with others, placed advertisements in newspapers, falsely promising to loan money to individuals

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK
3 - - - - - X
4 UNITED STATES OF AMERICA, :
5 :
6 Plaintiff, : 11-CR-30
7 :
8 -against- : United States Courthouse
9 :
10 : Brooklyn, New York
11 JOHN DOE, :
12 :
13 defendant. :
14 : May 6, 2011
15 : 3:00 p.m.
16 - - - - - X

17 SEALED
18 TRANSCRIPT OF PLEADING
19 BEFORE THE HONORABLE KIYO MATSUMOTO
20 UNITED STATES DISTRICT JUDGE

21 APPEARANCES:

22 For the Plaintiff: LORETTA E. LYNCH, ESQ.
23 United States Attorney
24 BY: ALLON LIFSHITZ, ESQ.
25 JAMES GATTA, ESQ.
Assistant United States Attorneys
For the Defendant: ALEXANDER EISEMANN, ESQ.
GEOFFREY S. STEWART, ESQ.

26 Court Reporter: FREDERICK R. GUERINO, C.S.R.
27 225 Cadman Plaza East
28 Brooklyn, New York
29 718-224-7686

30 Proceedings recorded by mechanical stenography, transcript
31 produced by CAT.

FREDERICK R. GUERINO, C.S.R.

OFFICIAL COURT REPORTER

1 THE COURT: Criminal cause for pleading, 11-CR-30,
2 United States of America v. Anthony Russo.

3 Would the parties state their appearances.

4 MR. LIFSHITZ: Allon Lifshitz and James Gatta with
5 the United States. With us joined at counsel table is
6 Special Agent Scott Curtis of the F.B.I.

7 Good afternoon.

8 THE COURT: Good afternoon.

9 MR. EISEMANN: Alex Eisemann for Mr. Russo.

10 Good afternoon.

11 THE COURT: Good afternoon.

12 Good afternoon. Mr. Russo. How are you, sir?

13 Do you speak and understand English?

14 THE DEFENDANT: Yes, I do.

15 (The defendant is sworn in at this time.)

16 THE COURT: Mr. Russo, before deciding whether or
17 not to accept your guilty plea, there are a number of
18 questions that I must ask you in order to assure myself that
19 your plea is valid. If you do not understand one of my
20 questions, please let me know and I will be glad to clarify.
21 All right, sir?

22 THE DEFENDANT: Thank you.

23 THE COURT: Do you understand that having been sworn
24 your answers to my questions will be subject to the penalty
25 of perjury or making false statements if you do not answer

1 THE COURT: At this time, Mr. Russo, let's start
2 with Count One. I would like you to tell me in your own
3 words what you did in connection with the acts set forth in
4 Count One of the indictment.

5 THE DEFENDANT: Between the time of my release from
6 New York State custody, in or around the fall of '92 until
7 February 2011, I was associated with and was a member of the
8 Colombo Crime Family.

9 During that period, I committed a number of crimes,
10 including murder, murder conspiracy, narcotic trafficking,
11 extortion, loansharking, in furtherance of the Colombo Crime
12 Family. I will describe six of those crimes.

13 In or about 1993, in Brooklyn, I agreed to help
14 other people kill Joey Scarpo, who was a member of the
15 Colombo Crime Family.

16 In or about October 20, 1993, I participated in the
17 murder with other people by driving them to the scene,
18 knowing their intent when they arrived was to kill Scarpo.

19 Between October 20 and October 27, 1994, in
20 Brooklyn, I agreed to purchase video games that had been
21 stolen in New Jersey, and I then attempted to complete that
22 purchase in a location here in Brooklyn. At that time I
23 received a sample of the stolen property. I attempted to
24 take possession of the rest of the stolen items. I thought I
25 saw law enforcement personnel watching me, so I abandoned the

1 items which were worth more than \$5,000.

2 THE COURT: They were worth more than five thousand?

3 THE DEFENDANT: Yes.

4 In or about September 2009, in the Eastern District
5 of New York, I instructed other people to try to collect
6 money owed by another individual. When I gave these
7 instructions, everyone involved understood that the efforts
8 to collect the money would be backed up by intimidation and
9 threats of violence. That's how the Colombo family routinely
10 handles these types of clashes.

11 THE COURT: Take your time, sir.

12 THE DEFENDANT: In 2010, associates of another
13 organized crime organization stabbed an associate of the
14 Colombo Crime Family. Between May 2010 and August 2010, I
15 arranged a series of meetings with members of that other
16 organization to seek monetary compensation for that stabbing.
17 In the meetings which took place in Brooklyn and in Staten
18 Island, the members of the other organization agreed to
19 compensate the stabbing victim. It was clearly understood by
20 everyone involved that if these people didn't come through
21 with the compensation, in the future they would be subject to
22 violence.

23 In September of 2010, in Brooklyn, I sent an
24 individual to collect a debt from someone who was supposed to
25 obtain money for the wife of a member of the Colombo Crime